



## *Report to the Auburn City Council*

Action Item
Agenda Item No. 15

City Manager's Approval
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**To:** Mayor and City Council Members  
**From:** Lance E. Lowe, AICP, Associate Planner  
Jennifer Solomon, Code Enforcement Officer  
**Date:** June 14, 2010  
**Subject:** Second Reading of an Ordinance Amending Chapter 97 of the Auburn Municipal Code Relating to Animals, Including Specific Provisions For the Spay, Neuter and Breeding of Pit Bull Dogs.

### *The Issue*

Should the City Council approve the Second Reading of an Ordinance Amending Chapter 97 of the Auburn Municipal Code Relating to Animals, Including Specific Provisions for the Spay, Neuter and Breeding of Pit Bull Dogs (**Attachment 1**)?

### *Conclusions and Recommendation*

Staff recommends that the City Council take the following actions:

- A. Hold a Second Reading, by title only, of an Ordinance Amending Chapter 97 of the Auburn Municipal Code Relating to Animals, Including Specific Provisions for the Spay, Neuter and Breeding of Pit Bull Dogs; and,
- B. Adopt a Resolution establishing city policy to request, during sentencing of individuals convicted of violent crimes or drugs, that the District Attorney's Office seek conditions of probation and/or parole prohibiting those persons from owning dogs over 20 pounds in size (**Attachment 2**).

### *Alternative Recommendation*

- A1. Amend the Ordinance and Introduce and hold a first reading, by title only, of the Animal Regulations Ordinance deleting breed specific spay, neuter and breeding requirements for pit bull dogs; or,
- A2. Amend the Ordinance and Introduce and hold a first reading, by title only, of the Animal Regulations Ordinance requiring, with certain exception, all dogs to be spayed or neutered.

**History/Background**

On May 24, 2010 the Auburn City Council held a duly noticed public hearing and adopted the draft Animal Regulations Ordinance, as amended by the City Council, which included the following actions: (**MOTION**: Hanley; **SECOND**: Nesbitt; **AYES**: Hanley, Kirby, Nesbitt, & Powers; **NOES**: Holmes; **ABSTAIN**: None) (**Exhibit A**).

1. Adopted a Statutory Exemption prepared for the amendment of the City Municipal Code Chapter 97 entitled Animals, as the appropriate level of environmental review, in accordance with Section 15061 (b)(3) of the California Environmental Quality Act (CEQA) and Guidelines;
2. Adopted Findings of Fact for approval of the Amendments to Chapter 97 of the Auburn Municipal Code;
3. Deleted Section 97.026 entitled "Limitations on Number of Dogs within a Household" from the proposed ordinance;
4. Directed Staff to include in the Zoning Ordinance Update provisions limiting the number of dogs permitted within a household that are consistent with the restrictions stated in the Placer County zoning ordinance;
5. Directed Staff to prepare a Resolution for Council consideration establishing city policy to request, during sentencing of individuals convicted of violent crimes or drugs, that the District Attorney's Office seek conditions of parole and/or probation that prohibit ownership of dogs over 20 pounds in size (**Attachment 2**);
6. Introduced and held a first reading, by title only, of the Animal Regulations Ordinance amending various sections of Chapter 97 of the Auburn Municipal Code relating to animals, thereby establishing standards, in accordance with State law, for the spay, neutering and breeding of pit bull dogs;
7. Adopted a Resolution establishing an updated fee schedule, excluding increased fees for licensing of unaltered and altered dogs, to implement the amended Animal Regulations Ordinance as presented; and,
8. Directed Staff to bring back the ordinance for Council review in 1 year.

A Second Reading is required to adopt the Ordinance. Should the Council decide to adopt the Ordinance as amended by Council on May 24, 2010, the Ordinance will become effective thirty (30) days following the Second Reading.

**Alternative Recommendation Analysis**

It should be noted that although the Council approved the draft Animal Regulations Ordinance at a 4:1 vote, Council deliberations indicated that there may be a desire to avoid breed-specific regulation.

Accordingly, staff has provided alternative recommendations should the Council opt to remove the breed specific spay, neuter and breeding requirements for pit bulls altogether or require that all dogs be spayed or neutered. Should the City Council choose one of these alternative recommendations, staff will bring back the amended Animal Regulations Ordinance for a second reading on June 28, 2010. The City Attorney advises that substantive changes of this sort will require a renewed first reading at your June 14<sup>th</sup> meeting.

**A1 – Deleting Breed Specific Spay, Neuter and Breeding Requirements for Pit Bull Dogs:**

Should the Council opt to amend the draft Animal Regulation Ordinance by deleting breed specific provisions for pit bull dogs altogether; the following amendments to the draft Animal Regulations Ordinance will be made and presented at the June 28, 2010 City Council meeting for second reading:

1. Delete Definition of Pit Bull;
2. Section 97.022 requiring the spay or neuter of pit bulls will be deleted in its entirety;
3. Section 97.023 and Section 97.024 requiring Breed Determination and Reporting Requirements respectively, will be deleted in their entirety;
4. Section 97.025 relating to penalties for unaltered pit bulls will be deleted in its entirety;
5. Section 97.052 and Section 97.055 Requiring a Permit for the Breeding and Transferring of Pit Bull Puppies and Transfer of Pit Bull Puppies will be deleted in their entirety.

If the Council chooses this option; effectively the draft ordinance will constitute an update to the City's Animal Regulations with more specific and penal provisions for dogs at large; leash requirements; potentially dangerous dogs; dangerous dogs; and, adjudicated dangerous dogs.

Any provisions with respect to spay, neuter and breeding requirements will have been deleted and staff will continue the same procedures currently in effect for the issuance of dog licenses.

**A2 – Delete Breed Specific Spay, Neuter and Breeding Requirements for Pit Bull Dogs and Require, with Certain Exception, All Dogs to be Spayed or Neutered:**

Should the Council opt to amend the draft Animal Regulation Ordinance by deleting breed specific provisions for pit bull dogs and require all dogs to be spayed or neutered; the following amendments to the draft Animal Regulations Ordinance will be made and presented at the June 28, 2010 City Council meeting for second reading:

1. Delete Definition of Pit Bull;
2. Section 97.022 relating to spay or neuter of pit bulls will be amended to include all breeds of dogs; exceptions to the spay or neuter provisions are as follows:
  - A. The dog is under six (6) months of age.

- B. The dog cannot be spayed or neutered without a high likelihood of suffering serious bodily harm or death due to the physical abnormality. A veterinarian must certify such a condition; determine any time frame after which the dog can be spayed or neutered.
  - C. The dog has been present in the City for fewer than thirty (30) days.
  - D. Dogs presently licensed by the City shall be required to be spayed or neutered prior to license renewal.
  - E. The dog is a show dog. The owner must submit a copy of the organization papers (American Kennel Club or United Kennel Club) or other evidence satisfactory to the Department demonstrating the pedigree information and show dog registration.
- 3. Section 97.023 and Section 97.024 requiring Breed Determination and Reporting Requirements respectively, will be deleted in their entirety;
  - 4. Section 97.025 relating to penalties for unaltered pit bulls will be deleted in its entirety;
  - 5. Section 97.052 and Section 97.055 Requiring a Permit for the Breeding and Transferring of Pit Bull Puppies and Transfer of Pit Bull Puppies will be deleted in their entirety.

Should the Council opt to require spay or neutering for all dogs, the ordinance could apply to an estimated 16% of dogs presently licensed in the City—the remainder are already spayed or neutered.

According to dog license records, a total of 775 households account for a total of 1,058 dogs licensed in the City of Auburn. Of the 1,058 licensed dogs in the past few years, 482 dogs or 45% are spayed and 408 or 39% are neutered totaling 890 dogs or 84% of the total licensed dogs.

Spay or neuter would then apply to the remaining 168 dogs or 16% of the total unaltered licensed dogs.

The fee for spay or neuter at the local SPCA is \$25 (Specific to pit bull breeds with SPCA Spay, Neuter Assistance Program (SNAP) voucher). For other breeds, neuter at a Human Society or other low-cost clinic can range from \$45 to \$135, depending on the weight of the dog. The cost of spaying, a more complicated surgery, usually ranges from about \$50 to \$175. Some private clinics and animal hospitals can charge up to \$200 to \$300 or more, depending on the weight of the dog.

In order to implement the spay or neuter for all dogs in an phased manner, staff recommends that owners with current dog licenses would not be required to spay or neuter their dog immediately, but would be required to spay or neuter their dogs prior to license renewal (i.e. in one, two, or three years depending upon the expiration of the license). This phased approach would be easier for staff to manage versus requiring all existing licensed unaltered dogs to be spayed or neutered within a specified time after adoption of the ordinance and would give dog owners time to become aware of, and comply with the requirement.

When comparing breed specific legislation for pit bulls to requiring spay or neutering of all dogs, it is definitely easier for staff to manage requirements that are not breed specific. As noted above, not being breed specific would eliminate several sections in the proposed ordinance (definition, breed determination, reporting, and breeding permit) and potential time spent on appeals would not occur. As with any new regulation the greatest impact to city staff would be enforcement. One way to lesson this impact is staff's proposal to phase in the spay or neuter requirement. There will be a cost borne by owners to spay or neuter their dogs.

**Alternatives Available to Council; Implications of Alternatives**

- A. Hold a Second Reading and adopt Ordinance as presented;
- B. Deny the Second Reading and direct staff to take no further action on the ordinance; because there are needed updates to non-controversial aspects of this ordinance, staff cannot recommend this alternative; and,
- C. Amend the Ordinance and Introduce and hold a first reading, by title only, of the Animal Regulations Ordinance, as amended.

**Fiscal Impacts**

There will be additional costs associated with staff time to implement a new Animal Regulation Ordinance; however, the proposed ordinance and fee schedule does provide for the collection of fees from animal owner(s). It is anticipated that most (but not all) costs will be recovered, based upon the updated fee schedule.

**Additional Information**

Please see the following attachments for more details:

**ATTACHMENTS –**

- 1. Draft Animal Regulations Ordinance as Amended by City Council on May 24, 2010
- 2. Draft Resolution Requesting the District Attorney Seek Conditions of Parole and/or Probation Prohibiting Felons From Owning Dogs over 20 pounds in size

**EXHIBIT –**

- A. May 24, 2010 City Council Staff Report with Attachments & Exhibit



# ATTACHMENTS

ORDINANCE NO. 10- \_\_\_\_\_

AN ORDINANCE OF THE CITY OF AUBURN REPEALING SECTIONS 97.001 THROUGH 97.031 AND SECTIONS 97.065 THROUGH 97.077 AND ADDING NEW SECTIONS OF THE AUBURN MUNICIPAL CODE ESTABLISHING ANIMAL REGULATIONS WITH SPECIFIC PROVISIONS FOR PIT BULLS IN ACCORDANCE WITH SB 861

**Exhibit A**

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**CHAPTER 97: ANIMALS**

**GENERAL PROVISIONS**

- 97.001 Findings
- 97.002 Purpose and Intent
- 97.003 Definitions
- 97.004 Charges and Amendments
- 97.005 Reserved
- 97.006 Impounded Animals; Aged, Diseased and Dangerous; Destruction
- 97.007 Animal Nuisances
- 97.008 License and Enforcement Powers
- 97.009 Reserved
- 97.010 Exhibition of License
- 97.011 Right of Entry

**DOGS**

- 97.012 License Required; Records
- 97.013 Reserved
- 97.014 Licenses; Puppies; Exceptions
- 97.015 Licenses; Tags and Certificates; Procurement; Term
- 97.016 Reserved
- 97.017 Licenses; Tags and Certificates; Duplicates; Fees
- 97.018 Licenses; Tags and Certificates; Exhibition
- 97.019 Licenses; Tags; Wearing; Removal
- 97.020 Removal of Animal Waste
- 97.021 Reporting of Dog Bites
- 97.022 Mandatory Spaying and Neutering of Pit Bulls; Exceptions
- 97.023 Determination of Breed
- 97.024 Reporting Requirements
- 97.025 Penalties for Unaltered Pit Bulls
- 97.026 Reserved
- 97.027 Animals at Large; Leash and Confinement of Dogs

## **POTENTIALLY DANGEROUS OR DANGEROUS DOGS**

- 97.028 Potentially Dangerous or Dangerous Dogs
- 97.029 Potentially Dangerous or Dangerous Dog Classification
- 97.030 Request for Hearing
- 97.031 Service of Notice
- 97.032 Administrative Hearing
- 97.033 Subpoenas
- 97.034 Affirmative Defense to Classification
- 97.035 Successor Owners or Keepers
- 97.036 Judicial Review; Notice of Intent; Review; Request for Record
- 97.037 Seizure and Impoundment
- 97.038 Alternative Impoundment
- 97.039 Mitigating Circumstances
- 97.040 Licensing Potentially Dangerous Dogs
- 97.041 Display of Potentially Dangerous Dog License Tag
- 97.042 Restraint of Potentially Dangerous Dogs
- 97.043 Notice of Escape or Disposition of Potentially Dangerous Dog
- 97.044 Posting of Premises Where Potentially Dangerous Dog is Maintained
- 97.045 Owner of Potentially Dangerous Dog to Permit Inspection
- 97.046 Possession or Control of Potentially Dangerous Dogs by Certain Persons Prohibited
- 97.047 Insurance Requirements for Owning or Keeping a Potentially Dangerous Dog
- 97.048 Identification of Potentially Dangerous Dogs
- 97.049 Spay or Neuter of Potentially Dangerous Dogs
- 97.050 Destruction of Dangerous Dogs; Request for Temporary Stay Pending Judicial Review
- 97.051 Restrictions on Possession or Control of Dogs by Certain Persons

## **BREEDING PERMITS**

- 97.052 Requiring Permit for the Breeding and Transferring of Pit Bull Puppies
- 97.053 Granting or Denying a Permit
- 97.054 Revocation of Permit
- 97.055 Transfer of Pit Bull Puppies
- 97.056 Fines for Failure to Comply with Permit Requirements
- 97.057 Exceptions to Permit Posting Requirements



## **GENERAL PROVISIONS**

### **§ 97.001 FINDINGS.**

The City Council adopts this chapter based upon the following findings:

- (A) The legislature of the State of California approved a breed specific spaying and neutering program by adopting Senate Bill 861, codified at California Food & Agricultural Code § 31683 and California Health & Safety Code § 122331.
- (B) SB 861 authorizes local governments to mandate the spaying and neutering of specific dog breeds.
- (C) It is the City Council's intention that nothing in this Ordinance shall conflict with preemptive state or federal law and this ordinance shall be interpreted in light of that intent.
- (D) It is the City Council's intention that nothing in this Ordinance shall be construed to prevent dog owners from maintaining animals capable of reproduction provided that they do so in compliance with the requirements of this chapter.
- (E) To protect the public health, safety and welfare, it is the desire of the City Council to amend the City of Auburn Municipal Code consistent with SB 861, regarding the mandatory spaying and neutering of pit bull breeds and the permissive maintenance of, and breeding of, intact pit bull breeds.
- (F) Restricting the maintenance and breeding of pit bulls capable of reproduction and requiring the spaying and neutering of pit bulls will not prevent responsible pet owners and pet breeders from owning, breeding, or showing pit bulls.

### **§ 97.002 PURPOSE AND INTENT.**

- (A) It is the purpose and intent of this chapter to require the mandatory spaying and neutering of all pit bulls whose owners have not obtained a breeding permit pursuant to this chapter.
- (B) It is the purpose and intent of this chapter to establish a permit system allowing responsible owners to maintain pit bulls capable of reproduction and to breed pit bulls.

## **§ 97.003 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly requires a different meaning to serve the intent of this chapter.

**ADJUDICATED DANGEROUS DOG.** Any dog in the city finally determined to be a dangerous dog after a hearing under section 97.032 or the lapse of the time to request a hearing, and an appeal under section 97.036, or a lapse of the time to initiate an appeal, or a dog in the city finally determined to be a dangerous dog under the laws and procedures of any other jurisdiction.

**ANIMAL CONTROL OFFICER.** Any person authorized by the Department to license animals and to enforce local and state laws regarding animals.

**ANIMAL SHELTER.** The Placer County Animal Shelter or other animal shelter available to the city by contract or otherwise.

**AT LARGE.** Any animal off the premises of its owner and not under restraint by leash, lead, rope or chain.

**BREEDERS PERMIT.** A permit issued by the Animal Control Officer allowing the breeding of pit bulls in accordance with Section 97.052 et. seq. of this chapter and/or the maintenance in the city of one or more pit bulls which are capable of reproduction.

**CITY.** City shall mean the City of Auburn.

**DANGEROUS DOG.** A dangerous dog shall mean any of the following:

1. A dog that causes the serious injury or death of any person.
2. A dog that while at large causes the serious injury or death of any domestic animal.
3. A dog that engages in or has been trained to engage in exhibitions of fighting.
4. A dog that again engages in behavior defined as a potentially dangerous dog after its owner has received notice that the dog has been determined to be a potentially dangerous dog.

**DEPARTMENT.** Department shall mean the Police Department of the city unless the City Manager designates another department or officer of the city to implement this chapter either in addition to or in lieu of implementation by the Police Department.

**DOMESTIC ANIMAL.** Any animal customarily kept as a household pet.

**DWELLING UNIT.** A housing accommodation designed for, or occupied exclusively by, one (1) family.

**FENCE.** A wire, wood, metal, masonry, or other material, at least three feet in height, used as an enclosure for a yard, lot or field to effectively confine dogs within a specific area. Fences that are not solid and view-obscuring shall not be considered as effectively confining dogs unless the horizontal and vertical member (wires, rails, and posts) are securely fastened together and firmly anchored into the ground, providing a barrier beyond which a dog cannot penetrate.

**KENNEL.** Any person engaged in the commercial business of breeding, buying, selling or boarding three (3) or more dogs other than persons to whom the city has issued a breeding permit.

**MUNICIPAL CODE.** The City of Auburn Municipal Code.

**OWNER.** Any person owning or having the control, custody or possession of any animal.

**POTENTIALLY DANGEROUS DOG.** Potentially dangerous dog shall mean any of the following:

1. A dog that, while at large, menaces, chases, displays threatening or aggressive behavior or otherwise threatens or endangers the safety of any person or domestic animal or livestock.
2. A dog that, without provocation, bites or causes physical injury to any person, domestic animal or livestock.

**SERIOUS INJURY.** Any injury requiring treatment beyond first aid.

**PIT BULL.** Any dog that a reasonable person would believe to be a Bull Terrier, Miniature Bull Terrier, American Pit Bull Terrier, Staffordshire Bull Terrier, American Staffordshire Terrier, and any other dog displaying physical traits that a reasonable person would believe to be those of any one or more of the above breeds, and any dog exhibiting those distinguishing characteristics that conform to the standards established by the American Kennel Club ("AKC") or United Kennel Club ("UKC") for any of the above breeds. The AKC and UKC standards shall be maintained on file and available for public inspection in the office of the Department.

**UNLICENSED DOG.** A dog for which a license fee for the current year has not been paid or to which the tag provided for in this chapter is not attached.

#### **§ 97.004 CHARGES AND AMENDMENTS.**

The fees required by this chapter shall be adopted by resolution of the city council and shall be calculated to recover the costs the city incurs to implement the provisions of this chapter which pertain to the fee in issue. The city council may amend those fees from time to time.

**§ 97.005 RESERVED.**

**§ 97.006 IMPOUNDED ANIMALS; AGED, DISEASED AND DANGEROUS; DESTRUCTION.**

It shall be the duty of the Animal Control Officer to destroy forthwith any animal lawfully impounded which is, by reason of age, disease or other cause, unfit to be a pet or dangerous to people or domestic animals.

**§ 97.007 ANIMAL NUISANCES.**

(A) No person shall own, possess, harbor, control or keep on any premises, any dog, fowl or other animal, that howls, barks, bays, cries, squawks or makes any other noise so continuously or incessantly for a period of twenty (20) minutes or intermittently for an hour or more as to unreasonably disturb the peace or quiet of any person. Doing so is hereby declared to be a nuisance.

(B) In determining whether a violation of the provisions of this section exists, the following shall be considered:

- i. The volume of the sound;
- ii. The proximity of the sound to sleeping facilities;
- iii. The time of the day or night the sound occurs.

(C) Any person who shall keep or permit to remain on any premises any animal which is a nuisance as defined in subsection A of this section is guilty of a violation of this chapter provided that while the animal is making such a noise, no person or other animal is trespassing or threatening to trespass or no person is provoking the animal.

(D) After determination that a violation of this section 97.007 has occurred and prior to issuance of a citation pursuant to Sections 10.88 et seq. of the Auburn Municipal Code, an enforcement officer shall issue at least one warning to the owner or person having care, custody, control or possession of the animal creating the nuisance.

(E) This chapter shall not apply to public animal control agencies or shelters, society for the prevention of cruelty to animal shelters, or humane society shelters.

**§ 97.008 LICENSE AND ENFORCEMENT POWERS.**

Animal Control Officers shall charge and collect license and other fees required by this chapter and issue the certificates and tags prescribed by this chapter and issue citations in accordance with the laws of the city and the state.

**§ 97.009 RESERVED.**

**§ 97.010 EXHIBITION OF LICENSE.**

No owner shall fail or refuse to exhibit the registration of any animal required to be licensed pursuant to the provisions of this chapter when requested to do so by the Department or an Animal Control Officer.

**§ 97.011 RIGHT OF ENTRY.**

An Animal Control Officer is hereby authorized to enter upon any premises upon which they have reasonable grounds to believe any animal is kept in violation of any law, or for the purpose of taking up, seizing or impounding any animal found running at large or for the purpose of inspecting the premises to ascertain whether any law of the city or state in any way relating to the care, keeping, treatment or impounding of dumb animals is being violated. Such entry shall be into areas open to the public, with the consent of an owner or occupant of the area to be entered, or pursuant to a warrant or other judicial authorization.

**DOGS**

**§ 97.012 LICENSES REQUIRED; RECORDS.**

Every owner of any dog over six (6) months of age kept or maintained within the city shall procure a license within thirty (30) days of acquiring ownership of the dog and shall pay the license fee established by resolution of the city council. The Licensing-Revenue Officer shall keep a record of the name of the owner or other person to whom a certificate and tag have been issued and the number and date of the certificate and tag.

**§ 97.013 RESERVED**

**§ 97.014 LICENSES; PUPPIES; EXCEPTIONS.**

Dogs under six (6) months of age need not be licensed pursuant to this chapter kept confined entirely on the premises of the owner. An Animal Control Officer may require satisfactory proof, in writing, substantiating any claim of exemption under the provisions of this chapter.

**§ 97.015 LICENSES; TAGS AND CERTIFICATES; PROCUREMENT; TERM.**

(A) An Animal Control Officer shall procure and issue numbered license tags stamped with the name of the city. The tags shall only be issued upon the application of owners who have complied with the vaccination and fee provisions of this chapter and the license tag will be permanently issued for each dog and shall remain with that dog.

(B) The dog licenses required by this chapter shall be issued upon the payment of the fees established by City Council resolution for a fixed period commencing upon the date of the application and upon the showing of a valid certificate of rabies vaccination.

**§ 97.016 RESERVED.**

**§ 97.017 LICENSES; TAGS AND CERTIFICATES; DUPLICATES; FEES.**

Whenever a license tag issued for the current year by an Animal Control Officer has been stolen or lost, the owner of the dog for which the tag was issued shall pay a fee established by City Council resolution, shall file with the Department, a declaration of the loss under penalty of perjury, and shall receive a duplicate tag for the remaining portion of the year.

**§ 97.018 LICENSES; TAGS AND CERTIFICATES; EXHIBITION.**

No person shall fail or refuse to show, upon demand thereof, to the Animal Control Officer, or any officer of the city, a license certificate, rabies vaccination certificate and license tag for any duly registered dog kept or maintained in the city.

**§ 97.019 LICENSES; TAGS; WEARING; REMOVAL.**

A dog owner shall be responsible to ensure that the tag issued pursuant to the provisions of Section 97.015 is securely fixed to a collar, harness or other device worn at all times by the dog for which the registration is issued, except while the dog remains indoors or within a yard or pen enclosed by a fence.

**§ 97.020 REMOVAL OF ANIMAL WASTE.**

It is unlawful for any owner of any equine or canine to fail to immediately remove, and dispose of in a sanitary manner, any waste deposited by the animal(s) upon public property, or upon private property not owned or controlled by the person. The provisions of this section shall not apply to a blind person assisted by a guide dog.

## **§ 97.021 REPORTING OF ANIMAL BITES.**

(A) Any owner of a dog or other animal that bites a human or domestic animal shall provide his or her name and address and present his or her driver's license or other form of identification and information regarding the rabies vaccination of the dog or other animal to the person bitten or the owner of the animal bitten. The owner of the dog or other animal shall provide his or her current residence address. If the person bitten is a minor, the owner of the dog or other animal shall provide the required information to the parent or guardian of the minor.

(B) In addition to the above requirements, it shall be the duty of any person having knowledge of any animal which has bitten a human or a domestic animal within the City, not later than the end of the next business day, to report the facts to the Placer County Health Department, an Animal Control Officer or the Department and to furnish as much information about the incident as possible, including the date, time and location where the bite occurred, description of the animal or person bitten, name and license number and rabies vaccination history of the biting animal.

## **§97.022 MANDATORY SPAYING AND NEUTERING OF PIT BULLS; EXCEPTIONS.**

No person may own, keep, or harbor any pit bull that has not been spayed or neutered within the City unless:

(A) The pit bull is under six (6) months of age.

(B) The pit bull cannot be spayed or neutered without a high likelihood of suffering serious bodily harm or death due to a physical abnormality. A veterinarian must certify such a condition; determine any time frame after which the pit bull can be spayed or neutered. Within sixty (60) days of the operative date of this ordinance, or within thirty (30) days of taking possession or ownership of an unspayed or unneutered pit bull after that 60<sup>th</sup> day, the owner of every pit bull kept in the City must submit such documentation to the Department.

(C) The pit bull has been present in the City for fewer than thirty (30) days.

(D) The owner has obtained, or has submitted an application for, a breeding permit in accordance with this chapter.

(E) The owner has submitted a request for a determination of the breed of the animal in question pursuant to this chapter which request remains pending.

(F) The pit bull is a show dog. Within sixty (60) days of the operative date of this ordinance, or within thirty (30) days of taking possession or ownership of an unspayed or unneutered pit bull after that 60<sup>th</sup> day, the owner must submit a copy of the organization papers (American Kennel Club or United Kennel Club) or other

evidence satisfactory to the Department demonstrating the pedigree information and show dog registration.

**§ 97.023 DETERMINATION OF BREED.**

(A) If an owner is unsure whether an unspayed or unneutered dog is a pit bull, the owner may request the Department to make that determination.

(B) An owner may appeal the Department's determination that a dog is a pit bull by filing a written appeal on a form supplied by the Department, accompanied by an appeal fee as established from time to time by resolution of the City Council, within five (5) business days of the Department's determination. The City Manager or his or her designee shall determine the appeal after examining the dog and any written evidence the owner submits within sixty (60) days of the filing of the appeal. The hearing shall be informal and formal rules of evidence shall not apply. The decision of the hearing officer on appeal is final as to the City and subject to review pursuant to California Code of Civil Procedure Section 1094.5.

**§ 97.024 REPORTING REQUIREMENTS.**

The Animal Control Officer shall prepare quarterly reports to the State Public Health Veterinarian. The reports shall include, but not be limited to:

- (A) Dog bites by severity;
- (B) Breed of dog;
- (C) Whether the dog was neutered or spayed;
- (D) Whether the breed was subject to a spay or neuter program; and,
- (E) Any other information required by law.

**§ 97.025 PENALTIES FOR UNALTERED PIT BULLS.**

Violation of the requirements of this chapter may result in any of following penalties and no election of remedies shall apply:

(A) A first violation that does not result in serious injury shall be an infraction punishable by a fine as established in Chapter 10.99 of the Auburn Municipal Code. In addition to paying the fine the Department shall:

- (1) Require the owner to have the dog spayed or neutered and to provide documentation verifying that the spaying or neutering occurred within two (2) weeks. If the owner, guardian or keeper fails to have his/her pit bull spayed or neutered, the Department shall have the authority to impound the dog, and the



owner, guardian or keeper may be charged with a second violation of this chapter.

(2) Impound the dog and order the owner to arrange for a veterinarian within the County of Placer to spay or neuter the animal and pay the Department a fee established by City Council resolution which shall cover the costs of the City and the County for that impoundment and spaying or neutering. The Department shall deliver the dog to the veterinarian, and the veterinarian shall release the dog to the owner when the spaying or neutering has been performed.

(3) Impound the dog and have a veterinarian spay or neuter the dog and order the dog owner to pay a deposit established by City Council resolution prior to the procedure against which the cost of these such services will be charged, along with any other costs the city incurs with respect to the animal while it is impounded.

(B) A second violation of this section that does not result in a serious injury shall be subject to a fine for an infraction in accordance with Section 10.99 of the Auburn Municipal Code. In addition, a second violation may result in the Department impounding the pit bull and disposing of the pit bull in accordance with Sections 97.037 and 97.050 of this chapter.

(C) A third violation or any violation that results in serious injury may be punished as a misdemeanor pursuant to Section 10.99 of this code, a civil action for an injunction to restrain further violations of this code, a proceeding under Sections 97.037 and 97.050 of this code to determine that the animal is a dangerous dog and to order the destruction of the dog or its exclusion from the city, or any other remedy available by law or in equity.

**§ 97.026 RESERVED.**

**§ 97.027 ANIMALS AT LARGE; LEASH AND CONFINMENT OF DOGS REQUIRED.**

An owner must not allow an animal to be at large with the following exceptions:

(A) Dogs secured within a vehicle or dog carrier;

(B) Animals trained to assist a person with a disability provided that they are accompanied by a disabled person whom they have been assigned to assist and evidence acceptable to the Department is provided demonstrating the animal's training as an assistive animal;

(C) Dogs participating in field or obedience training or exhibitions;

(D) Dogs assisting a security guard in the course of the security guard's duties;

(E) Police dogs;

(F) Dogs being trained for any of the purposes set forth in this section on private land with permission of the land owner, so long as the dogs are under direct control of a trainer to ensure that they remain subject to his or her control.

(G) Until such time as the Legislature amends Government Code Section 53074 to allow otherwise, this section shall be enforced as follows:

(1) No owner shall be cited because his or her dog is not leashed while on property owned or controlled by the owner unless the dog has strayed off the property.

(2) A dog that has strayed from but returned to private property owned or controlled by the owner of the dog shall not be seized or impounded, but a citation may be issued; provided however, that if the owner is not home, the dog may be impounded.

(3) Whenever a dog is impounded under this section from the property owned or controlled by the owner of the dog, the Animal Control Officer shall post an impound notice on the property. The notice shall provide the following information:

i. That the dog has been impounded and where the animal is held;

ii. The address and telephone number of the animal shelter or other place where the animal is held and the name of the person to be contacted regarding release of the dog;

iii. The ultimate disposition of the dog if no action to regain it is taken within a specified period of time by its owner.

## **POTENTIALLY DANGEROUS OR DANGEROUS DOGS**

### **§ 97.028 POTENTIALLY DANGEROUS OR DANGEROUS DOGS.**

Any person in possession or in control of a potentially dangerous dog as defined in this chapter shall not permit that dog to be or remain in any public place or premises in the City unless effectively muzzled; under restraint by a substantial leash, chain, or halter (not to exceed six feet in length); and under the control of a person who is competent to keep such animal under effective charge or control. This requirement is supplementary to any and all limitations and conditions which may be imposed upon said person by means of other permit specifications or conditions as may be required by this chapter. Except when so muzzled and leashed, adjudicated dangerous dogs and dogs which have previously been determined to be potentially

dangerous, shall be kept indoors or enclosed by a fence, as defined in this chapter, and by a second enclosure within the fenced area that is closed on all sides to prevent escape, including a base and a cover or roof.

**§ 97.029 POTENTIALLY DANGEROUS DOG AND DANGEROUS DOG CLASSIFICATION.**

(A) The Animal Control Officer is authorized to determine whether any dog is a potentially dangerous dog or a dangerous dog as those terms are defined in this chapter.

(B) When the Animal Control Officer has reason to believe that a dog is potentially dangerous or dangerous, the officer shall investigate whether there is sufficient evidence to classify the dog as potentially dangerous or dangerous. Evidence may include observations and testimony by the Animal Control Officer or other witnesses who personally observed the animal's behavior. The evidence may include testimony about the dog's upbringing and the owner's control of the dog.

(C) In determining that sufficient evidence exists to classify a dog as potentially dangerous or dangerous, an Animal Control Officer shall consider any mitigating circumstances described in Section 97.039 or in any regulation promulgated by the Department before reaching a determination; however, the existence of mitigating circumstances shall not in and of itself bar an Animal control Officer from classifying a dog as potentially dangerous or dangerous.

(D) When an Animal Control Officer determines a dog to be potentially dangerous or dangerous solely on the uncorroborated testimony of a victim or a witness other than a law enforcement officer, the testimony must be given in writing signed under penalty of perjury.

(E) If an Animal Control Officer determines a dog to be potentially dangerous or dangerous, he or she must serve the owner or keeper of the dog with notice of that determination. The notice may state the basis of the determination, that the animal may be impounded or destroyed if it should engage in conduct that allows a determination that it is a dangerous dog under this chapter, the right to a hearing, and the manner and time in which a hearing must be requested, and the nature of the hearing under this chapter.

(F) The Department may establish and amend from time to time administrative regulations for the classification of potentially dangerous and dangerous dogs and shall give notice of those regulations in the manner required by law for the publication of ordinances of the city council.

### **§ 97.030 REQUEST FOR HEARING.**

(A) If a dog owner disputes a determination that the dog is dangerous or potentially dangerous under Section 97.029, an impoundment under Section 97.037, the destruction of a dog under Section 97.050, or a restriction on possession or control of a dog under Section 97.051, he or she shall deliver a written request for a hearing to the Department within five (5) days of service of notice or else waive any further right to contest the action. The request must detail the factual basis to contest the action and any claimed affirmative defense or mitigating circumstance.

(B) If a timely request for hearing is submitted in accordance with Section 97.030(A), the Animal Control Officer shall schedule a hearing under Section 97.032 within sixty (60) days served on both the owner or keeper by regular mail as provided in Section 97.031 below. When an owner or keeper timely requests a hearing to contest impoundment and timely requests a hearing to contest a classification of a dog as dangerous or potentially dangerous, the hearing officer may schedule a single hearing on both requests.

(C) If no timely request for hearing is submitted, the determination of the Animal Control Officer becomes final, non-appealable and not subject to judicial review due to a failure to exhaust administrative remedies. In such case, any owner of a dog determined to be potentially dangerous shall comply with the requirements of this chapter for the keeping of such dogs in the City and any owner of a dog determined to be dangerous shall surrender it to an Animal Control Officer on request to arrange for it to be put down.

### **§ 97.031 SERVICE OF NOTICE.**

(A) When another provision of this chapter requires that notice be given by the City under this subsection, the notice may be served in any of the following means:

(1) Personal service.

(2) Certified mail at the last known address, postage prepaid, return receipt requested. Simultaneously, the same notice may be sent by regular mail to the last known address. If a notice that is sent by certified mail is returned unsigned, then service shall be deemed effective by regular mail, provided the notice that was sent by regular mail is not returned by the Post Office as undeliverable.

(3) Posting the notice conspicuously on or in front of the property where the dog was last known to be kept.

(4) If the Animal Control Officer issuing the notice knows that more than one (1) person is the owner of the dog, as the term "owner" is defined by this chapter, and that those persons have different mailing addresses, notice may

be served by regular mail at each owner's last known address provided that at least one (1) owner is given notice by one of the methods described in Section 97.031(A)(1) through 97.031 (A)(3).

(5) Services by certified or regular mail in a manner described in this section shall be effective on the date of mailing.

(6) Failure of an owner to receive any notice served in accordance with this section shall not affect the validity of any proceedings taken.

#### **§ 97.032 ADMINISTRATIVE HEARING.**

(A) A hearing officer designated by the Department shall conduct the hearing under this section, which hearing shall be informal, open to the public and recorded on audiotape.

(B) The hearing officer shall permit every owner of the dog and any victim or complaining witness, and may permit others, to offer written or oral evidence. The hearing officer may limit the use of subpoenas, witnesses, testimony, evidence, rebuttal, and argument. The hearing officer may allow the cross-examination of witnesses to the extent necessary to ensure a fair hearing and may limit cross-examination of witnesses as necessary to maintain proper decorum and to prevent harassment. The Department may establish rules or regulations governing the selection and duties of hearing officers.

(C) The City bears the burden of proof at the hearing of the propriety of the action which is the subject of the appeal provided, however, that the owner has the burden to prove any affirmative defense or mitigating circumstance.

(D) The owner(s) and the Animal Control Officer presenting the case may be represented by counsel, and may present oral and written evidence. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Relevant admission evidence includes but is not limited to incident reports and witness affidavits. Witnesses need not be sworn in except as otherwise provided in Section 97.029(D) of this chapter.

(E) The hearing officer's written determination shall be served as provided in Section 97.031 on all owners of the dog(s) affected by the hearing known to the City and all owners of the dog shall comply with the requirements of this chapter triggered by the determination and any order of the hearing officer before the later of (i) expiry of the time for judicial review of the decision without the filing of an action for such review pursuant to section 97.036 of this chapter or (ii) ten days after a final order of the Superior Court on such an action unless another time is specified by the Court.

#### **§ 97.033 SUBPOENAS.**

In any hearing conducted pursuant to this chapter, the hearing officer shall have power to examine witnesses under oath and the hearing officer and any dog owner may request the City Council to compel their attendance and/or the production of evidence by subpoenas issued pursuant to Government Code sections 37104 and 37105 or other applicable law. Any person who shall be served with such a subpoena to appear and testify or to produce books or papers issued in the course of any investigation or hearing who shall disobey or neglect to obey any such subpoena shall be guilty of a misdemeanor and punishable as provided in section 10.99 of this code. Subpoenas requested by a dog owner shall be supported by a declaration of the dog owner made under penalty of perjury showing good cause for issuance of the requested subpoena. The person requesting any subpoena issued pursuant to this section shall pay the witness fee established by statute for attendance of witnesses in civil actions in superior courts.

#### **§ 97.034 AFFIRMATIVE DEFENSE TO CLASSIFICATION.**

It shall be an affirmative defense to classification of a dog as dangerous or potentially dangerous under Section 97.029 if the dog owner or keeper demonstrates by a preponderance of the evidence at the hearing required by Section 97.032 that the behavior of the dog in question was directed against a willful trespasser into a building or fenced area on private property.

#### **§ 97.035 SUCCESSOR OWNERS OR KEEPERS.**

(A) Any person in the city who becomes the owner of an adjudicated dangerous dog or a dog that has been determined to be potentially dangerous shall comply with all the provisions of this chapter if he or she knows or reasonably should know of that fact.

(B) If an owner removes a dog from the city after it has been determined to be a potentially dangerous animal, that owner shall notify the agency responsible for enforcement of animal control laws in the place where the dog is to be relocated within thirty (30) days of removing the dog there and failure to do so shall constitute a misdemeanor violation of this code punishable as set forth in Section 10.99 of this Code.

#### **§ 97.036 JUDICIAL REVIEW; NOTICE OF INTENT TO SEEK JUDICIAL REVIEW; REQUEST FOR RECORD.**

(A) Any determination made after a hearing under Section 97.032 shall be final and conclusive as to the City, and may not be appealed excepted as provided in subsection (B) of this section.

(B) Judicial review of the final decision under Section 97.032 may be had in the Superior Court pursuant to Food & Agriculture Code Section 31622 provided that the appeal is initiated within the time specified in Section 97.050(A)(2) of this chapter. The owner, guardian, or keeper of the dog may be charged the actual cost of transcribing or otherwise preparing the record.

(C) Unless the hearing officer or the Superior Court grants a stay, a dog owner shall comply with the requirements of this chapter for keeping a potentially dangerous dog pending judicial review.

(D) After service of a final decision on the parties and upon written request to be delivered to the owner or keeper of the dog within ten (10) days, or as soon thereafter as reasonably possible, the owner, guardian, or keeper of the dog may be charged the actual cost of transcribing or otherwise preparing the record.

#### **§ 97.037 SEIZURE AND IMPOUNDMENT.**

(A) A dog classified as dangerous under Section 97.029 shall be impounded as soon practical after service of the classification notice. If a dog initially classified as dangerous is determined after a hearing under Section 97.032 not to be dangerous, but potentially dangerous, then the dog shall be either released or held impounded as provided in this section as the hearing officer shall determine. If the dog is determined after a hearing to be neither dangerous nor potentially dangerous, the dog shall be released to its owner.

(B) An Animal Control Officer may impound a dog classified as potentially dangerous when:

(1) The officer has probable cause to believe the dog poses an immediate threat to public health or safety; or,

(2) The owner, guardian or keeper of a dog classified as potentially dangerous has received notice of that classification and failed to timely comply with any of the requirements, or violated any of the prohibitions, of this chapter for keeping a potentially dangerous dog.

(3) A dog impounded under this subsection (B) shall be released when:

i. An owner has complied with sections 97.042, 97.044, 97.047, 97.048 and 97.049 and any other conditions imposed by the hearing officer and paid the costs of impoundment; or,

ii. A decision maker determines that the dog should not be classified as potentially dangerous in a hearing or appeal under this chapter;

iii. An owner has demonstrated an intention and an ability to immediately comply with this chapter's requirements for keeping a potentially dangerous dog; and,

iv. An owner has secured the release of his or her dog from impoundment after payment of impound fees.

(4) If the dog is found to be potentially dangerous or dangerous, every owner of the dog shall be jointly and severally liable to the City for all impoundment costs. No dog for which impoundment costs are due shall be released until the charges have been paid.

#### **§ 97.038 ALTERNATIVE IMPOUNDMENT.**

When not contrary to public health safety, the Animal Control Officer shall, at the request of an owner or keeper, permit a dog which might otherwise be impounded pursuant to this chapter to be confined at the owner's expense in a mutually agreed kennel or veterinary facility provided that the operator of the kennel or veterinary facility agrees that the animal may not be released other than to an Animal Control Officer without the written consent of the Department.

#### **§ 97.039 MITIGATING CIRCUMSTANCES.**

A dog owner may prove the following mitigating circumstances by a preponderance of the evidence. The Department need not investigate whether any mitigating circumstances exist.

(A) The person injured or threatened by the dog was at the time:

- (1) Abusing the dog;
- (2) Assaulting another person;
- (3) Committing or attempting to commit either a crime or an intentional tort on property owned or controlled by an owner of the dog;
- (4) Acting in concert with another who was committing or attempting to commit any of the acts described in this subsection.

(B) The animal injured or threatened by the dog to be classified was:

- (1) Threatening or attacking the dog to be classified when it was injured or threatened;
- (2) Injured or threatened while the dog to be classified was working as a



hunting dog, herding dog, or predator control dog on property owned or controlled by an owner of the dog and the animal was a species to be herded or hunted by the dog to be classified.

#### **§ 97.040 LICENSING OF POTENTIALLY DANGEROUS DOGS.**

An owner of a dog classified potentially dangerous under this chapter must obtain a potentially dangerous dog license from the Department within five (5) business days of service of a potentially dangerous dog classification notice. A license fee in addition to the licensing fee required by Section 97.012 of this chapter shall be charged to the dog's owner to provide for the increased costs of monitoring compliance with the requirements of this chapter.

#### **§ 97.041 DISPLAY OF POTENTIALLY DANGEROUS DOG LICENSE TAG.**

An owner of a dog licensed under Section 97.040 must display that license on the dog's collar at all times.

#### **§ 97.042 RESTRAINT OF POTENTIALLY DANGEROUS DOGS.**

(A) An owner of a dog in the city found to be potentially dangerous under this chapter or the law of another jurisdiction must restrain the dog at all times by one of the following methods:

- (1) Securely confine the dog indoors;
- (2) Securely confine the dog to property owned or controlled by an owner of the dog. Where the dog is confined by means of a fenced yard or enclosure, the fence or enclosure must meet the definition of a fence stated by this chapter above and must be constructed so as to prevent trespass by children.
- (3) Restrain the dog as provided in section 97.028.
- (4) Humanly confine the dog in a vehicle so that it can neither escape nor inflict injury on passersby.

(B) The Animal Control Officer may impose additional restraint requirements on the owners of a dog classified potentially dangerous, including requiring that the dog be muzzled whenever not secured indoors. Failure to comply with any order of the Animal Control Officer under this section is a violation of this chapter punishable as a misdemeanor under Section 10.99 of the City Municipal Code.

**§ 97.043 NOTICE OF ESCAPE OR DISPOSITION OF POTENTIALLY DANGEROUS DOGS.**

An owner of any dog classified potentially dangerous under this chapter shall immediately notify the Department if the dog is on the loose or unconfined. The owner of such a dog must notify the Department within 48 hours if the dog dies, is sold, transferred, kept at a new location, or an owner changes addresses. An owner must provide the address where the dog is to be kept and of the name, address and telephone number of any new owner. Any new owner applying for a license for a dog which that owner knows or reasonably should know has been classified as potentially dangerous under this chapter or under the laws of any other jurisdiction regulating potentially dangerous or dangerous dogs, must inform the Animal Control Officer, of the fact.

**§ 97.044 POSTING OF PREMISES WHERE POTENTIALLY DANGEROUS DOG IS MAINTAINED.**

Within five (5) days of the classification or immediately upon relocating the dog to new premises in the City, whichever is later, an owner of a dog found to be potentially dangerous under this chapter or the laws of another jurisdiction must display on any premises where the dog is kept a sign visible to the general public and approved by the Animal Control Officer depicting a menacing dog and warning there is a potentially dangerous dog on the premises.

**§ 97.045 OWNER OF POTENTIALLY DANGEROUS DOG TO PERMIT INSPECTION.**

An owner of any dog in the city which has been classified potentially dangerous under this chapter or under the laws of another jurisdiction must consent as a condition of licensing the dog to inspection by the Animal Control Officer of the dog and of the property where the dog is kept at any reasonable time to verify compliance with the requirements of this chapter.

**§ 97.046 POSSESSION OR CONTROL OF POTENTIALLY DANGEROUS DOGS BY CERTAIN PERSONS PROHIBITED.**

(A) No minor may possess or control a dog classified potentially dangerous at any time. When a minor is keeping a dog that is later classified potentially dangerous, the dog must be removed from the City of Auburn or ownership or control of the dog transferred to a new owner within fifteen (15) days of service of the classification notice.

(B) No person who has been convicted of a crime involving the use or threatened use of violence or the illegal sale of controlled substances may possess or control an adjudicated dangerous dog or a dog determined to potentially dangerous under this chapter or under the law of another jurisdiction. Within fifteen (15) days of

service of a notice of the requirements of this ordinance, such a person shall remove the dog from the City of Auburn or transfer ownership and control of the dog to a new owner and keeper who is not prohibited from owning the animal under this chapter and who does not reside with the person transferring ownership and control of the animal.

**§ 97.047 INSURANCE REQUIREMENTS FOR OWNING OR KEEPING A POTENTIALLY DANGEROUS DOG.**

The Animal Control Officer may require an owner of a dog classified as potentially dangerous under this chapter or under the law of another jurisdiction to maintain liability insurance of at least \$250,000 covering any damage or injury caused by the dog. In determining whether to impose an insurance requirement, the Animal Control Officer must consider the size, strength, and aggressiveness of the dog, and any evidence concerning the dog's upbringing and its owners' control of the dog. The insurance must be maintained for as long as the dog is kept in the City of Auburn. An owner must provide proof of coverage acceptable to the Department. The insurance must be obtained and a certificate presented to the Animal Control Officer within thirty (30) days of the dog being classified as potentially dangerous and upon each renewal of the insurance policy.

**§ 97.048 IDENTIFICATION OF POTENTIALLY DANGEROUS DOGS.**

(A) An owner of a dog classified potentially dangerous under this chapter or the law of another jurisdiction must within thirty (30) days of notice of the fact of that classification and at his or her own expense have either:

(1) An identification number assigned to the dog by a nationally recognized tattoo registry service tattooed permanently on the inner left rear leg of the dog; or,

(2) An identification microchip embedded under the dog's skin by a veterinarian. If the owner, guardian or keeper elects this option, he or she must have the procedure performed before the expiration of the thirty (30) day period.

(B) Compliance with this section shall be stayed upon a timely request for hearing under Section 97.032 or judicial review under Section 97.036 to contest the classification of the dog as potentially dangerous.

**§ 97.049 SPAY OR NEUTER OF POTENTIALLY DANGEROUS DOGS.**

(A) Within thirty (30) days of notice that a dog in the city has been classified as potentially dangerous under this chapter or the law of another jurisdiction, an owner of that dog must provide written evidence satisfactory to the Department that he or

she has had the dog spayed or neutered at his or her own expense by a licensed veterinarian.

(B) Compliance with this section shall be stayed upon timely request for hearing under Section 97.032 or judicial review under Section 97.036 to contest the classification of the dog as potentially dangerous.

**§ 97.050 DESTRUCTION OF DANGEROUS DOGS; REQUEST FOR STAY PENDING JUDICIAL REVIEW.**

(A) An adjudicated dangerous dog shall be destroyed after the later of the following dates:

(1) The expiration of the time to request a hearing under Section 97.032 provided that a hearing is not timely requested;

(2) Five (5) days after personal service or ten (10) days after service by mail of the administrative hearing decision, unless within that time an action for judicial review of the decision is initiated under Section 97.036 of this Code and written notice is given to the Department of that fact.

(3) Twenty (20) days after the notice to the Department required by subparagraph (2) of this paragraph (A) unless:

i. A stay under Section 97.036(C) is granted, then after the expiration of the stay;

ii. If an action for judicial review is filed pursuant to Section 97.036, then two (2) days after personal service or seven (7) days after mail service of notice of entry of judgment or as otherwise specified in the order of the court.

(B) A dog owner may request a stay of the destruction of the dog pending the filing of an action for judicial review under Section 97.036 of this chapter by filing a written request for stay with the Department and making an advanced payment for kenneling costs. The stay shall be granted and effective for a number of days equal to the number of days of advanced kenneling costs received and shall be extended for such longer period as the owner posts additional kenneling costs with the Department or for such time as the Superior Court may direct.

(C) Every owner of the dog shall be jointly and severably liable to the City of Auburn for the cost of impoundment, kenneling, euthanasia, and disposal of the dog's remains.

**§ 97.051 RESTRICTIONS ON POSSESSION OR CONTROL OF DOGS BY CERTAIN PERSONS.**

The Animal Control Officer may upon a finding of good cause prohibit for a period of three (3) years the possession or control of any dog by any person who violates the provisions of this chapter pertaining to the ownership or keeping of a dog classified potentially dangerous. The restriction will not be effective until the Animal Control Officer provides written notice of the prohibition in the manner described in Section 97.031, the opportunity to request a hearing under Section 97.032 and an opportunity to seek judicial review as provided in Section 97.036.

(A) The Animal Control Officer may upon finding a good cause prohibit the possession or control of any dog by the owner and keeper of a dog classified as dangerous under this chapter. The restriction will not be effective until the Animal Control Officer provides written notice of the prohibition in a manner described in Section 97.031, the opportunity to request a hearing under Section 97.032 and an opportunity to seek judicial review as provided in Section 97.036.

**BREEDING PERMITS**

**§ 97.052 REQUIRING PERMIT FOR THE BREEDING AND TRANSFERRING OF PIT BULL PUPPIES.**

(A) No person shall cause or allow any pit bull, as defined in this section, that is owned, harbored or kept within the City to breed or give birth without first obtaining a permit as described in this chapter.

(B) Keeping an unaltered male adult dog together with a female dog in heat in the same dog run, pen, room or any other space in which the dogs might breed is prima facie evidence that an owner is subject to the permit requirement of paragraph (A) of this section.

**§ 97.053 GRANTING OR DENYING A PERMIT.**

(A) An owner of a pit bull may obtain a breeding nontransferable permit with a one-year term. The permit may be obtained from the Department if all of the following conditions are met:

(1) The applicant has submitted the appropriate forms and fees for a breeding permit.

(2) The applicant has a space in which to breed pit bulls and raise the puppies that the Department is satisfied will contain the animals as well as provide them with safe, sanitary, and humane conditions, and which satisfies all applicable provisions of the Auburn Municipal Code and of State animal welfare laws. Failure of an applicant to allow an inspection of the proposed

quarters for the animals necessary to allow this determination within two (2) weeks of the Department's request to do so shall be a basis to deny a permit.

(3) The Department has evaluated the suitability of the particular pit bulls to be bred, including consideration of their lineage, age and health condition and determined that it is appropriate to breed those animals under the following standards:

i. Any pit bull to be bred must be registered as a Bull Terrier, Miniature Bull Terrier, American Pit Bull Terrier, Staffordshire Bull Terrier, or American Staffordshire Terrier with the appropriate registry for its breed (American Kennel Club, United Kennel Club, American Dog Breeders Association ("ADBA") or any other registry the Department the department determines to be bona fide.

ii. Any pit bull to be bred must meet the breed standard of the registration agency for physical conformation and temperament.

iii. The registered pit bull has participated in at least one dog show approved by the registration agency during the previous 365 days or the applicant has given written notice to a registration agency stating intent to include the dog in a dog show approved by that registration agency. For purposes of this section, a "dog show" is an event that is sanctioned by one or more of the dog registries listed above.

iv. Any pit bull to be bred shall have the appropriate health screenings for its breed. This includes, but is not limited to: Orthopedic Foundation for Animals ("OFA") or University of Pennsylvania Hip Improvement Program ("PennHIP") certification on hips, OFA certification on heart by a certified cardiologist and the American Temperament Testing Society temperament test.

(B) Breeders shall not allow female pit bulls to have more than one (1) litter per year.

(C) Upon approval of his/her application, the applicant must pay a permit fee established by City Council resolution to fund the cost of enforcing the requirements of this chapter.

(D) The Department shall automatically deny the permit if one (1) or more of the following occurs, and that decision shall be final:

(1) The applicant fails to pay the permit fee within two (2) weeks of notification that the application has been approved. An applicant may reapply for a permit after one (1) year.

(2) The applicant has a history of allowing dogs to run loose or escape, or has otherwise been found to be neglectful; or owned a dog determined to be a nuisance, potentially dangerous or dangerous while in his or her ownership.

(3) The applicant has violated any provisions of the Auburn Municipal Code related to animal husbandry.

(4) The applicant has violated any provisions of a pit bull breeding permit within the last year.

(E) The Department may at reasonable times in the presence of an owner on one (1) or more occasions during the term of the permit, inspect the dogs' living quarters to ensure permit standards are satisfied. If the permittee does not allow the inspection within two (2) weeks of the Department's request to do so or if the property does not meet the required standards, the Department shall revoke the permit pursuant to section 97.054 below.

#### **§ 97.054 REVOCATION OF PERMIT.**

(A) The Department may, after conducting a hearing, revoke a breeding permit for violations of the provisions of the Auburn Municipal Code. Within five (5) days of the Department's knowledge of any such violations, a hearing officer designated by the Department may notify the owner(s) of the pit bulls in writing of the violation and the penalties therefore, including revocation of the breeding permit. Unless hearing is waived by the owner(s) of the dogs, or the hearing is scheduled on an agreed date, the hearing officer shall set a hearing not more than sixty (60) days from the date of the violation notice. The hearing officer shall give written notice of the hearing to all owner(s) of the pit bulls of which the City is aware not less than five (5) days before the hearing.

(B) The hearing shall be conducted under the standards for hearings under Section 97.032. Upon a finding of a violation, the hearing officer may impose appropriate remedies on any and all owners of the dogs at issue. Any violation(s) may also be a basis to deny future pit bull breeding permits under this chapter. The decision of the hearing officer is final as to the City but subject to judicial review under Code of Civil Procedure Section 1094.5.

(C) Upon revocation of a permit, the permittees shall cease to breed pit bulls in the city. If upon revocation of a breeding permit, a dog is pregnant or puppies have been born, the owners shall remove the animals from the City or, if the Department authorizes the owners to do so in writing, wean the puppies and dispose of them within a time determined by the Department. If the Department reasonably determines it necessary to ensure compliance with these requirements, it may impound adult pit bulls or puppies pending the dogs' owners' compliance with the requirements of this chapter and any order entered following a hearing under this chapter.

**§ 97.055 TRANSFER OF PIT BULL PUPPIES.**

(A) Any person who offers any pit bull puppies under six (6) months old for sale, trade, or adoption in the city must prominently identify a valid city breeding permit number on any advertisement, notice or other writing inviting offers to, making an offer to or effecting a transfer.

(B) No person shall remove puppies from a litter until the puppies are at least eight (8) weeks of age, fully weaned, have their first set of vaccinations, have been de-wormed and are in good general health.

(C) No breeder may transfer ownership of control of a pit bull puppy that is not registered by a registration agency as described in Section 97.053(A)(3) without arranging for the animal to be spayed or neutered before the transfer.

(D) Within three (3) weeks of the time that the litter is whelped, the breeder shall notify the Department in writing of the number of puppies live born. Within three (3) weeks after the breeder transfers possession of each puppy, the breeder shall notify the Department of the name, address, and telephone number of the new owner, guardian or keeper of each puppy.

**§ 97.056 FINES FOR FAILURE TO COMPLY WITH PERMIT REQUIREMENTS.**

(A) A violation of the breeding permit provisions of this chapter shall be an infraction punishable by a fine established by Chapter 10.99 of the Auburn Municipal Code. Such violations must be corrected within thirty (30) days.

(B) After thirty (30) days of the first citation, an owner fails to correct a violation of the breeding permit provisions of this chapter, he or she shall be guilty of an additional violation and an additional violation shall occur for each thirty (30) days that the original violation remains uncorrected. Any such violation may be punished as a misdemeanor under Section 10.99 of the Auburn Municipal Code.

(C) Each violation of Sections 97.055(A) through 97.055(D) shall be an infraction punishable pursuant to Section 10.99 of the Auburn Municipal Code.

**§ 97.057 EXCEPTIONS TO PERMIT POSTING REQUIREMENTS.**

The Department or an animal welfare and rescue organization exempt from income taxation under Internal Revenue Code Section 501(C)(3) that seeks adoptive homes for pit bulls need not comply with Section 97.055



## ATTACHMENT 2

RESOLUTION NO. 10-\_\_\_\_\_

RESOLUTION OF THE CITY OF AUBURN REQUESTING THAT THE DISTRICT ATTORNEY SEEK SENTENCING AND PROBATION CONDITIONS TO PROHIBIT THE OWNERSHIP OF DOGS OVER 20 LBS. BY PERSONS CONVICTED OF VIOLENT CRIMES OR DRUG OFFENSES.

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A. Whereas, from January 1, 2005 to March 8, 2010, *DogsBite.org* recorded 158 fatal dog attacks in the United States. Of the 158 fatal dog attacks, Pit bulls were responsible for 56% (88) of the deaths; and,

B. Whereas, recent dog attacks in the City of Auburn has prompted the City Council to update the City's Animal Regulations (Chapter 97 of the Auburn Municipal Code) requiring the spay and neutering of pit bull dogs; and,

C. Whereas, persons convicted of violent crimes and drug offenses are prohibited by state law from owning firearms and should likewise be barred from owning large dogs that can be trained to be as dangerous as a weapon.

D. Whereas, the mistreatment and use of pit bulls, as a weapon by individuals in the conduct of illegal enterprises, has prompted other States to adopt legislation prohibiting felons from owning pit bulls; and,

E. Whereas, Section 97.051 of the adopted City of Auburn Animal Regulations prohibits an individual convicted of a crime involving the use or threatened use of violence or the illegal sale of controlled substances from possessing an adjudicated dangerous dog or potentially dangerous dog as those terms are defined in the ordinance.

F. Whereas, the City Council of the City of Auburn has adopted the updated Animal Regulations as the minimum necessary to protect the public health, safety, and welfare of the residents in the City of Auburn; and,

1  
2 G. Whereas, in furthering the protection of its citizens, the City Council  
3 requests that the District Attorney seek, as a term and condition of parole  
4 and/or probation, that individuals convicted of a crime involving the use or  
5 threatened use of violence or the illegal sale of controlled substances from  
6 possessing a dog over 20 pounds or residing with another person who  
7 possesses such a dog, excepting service dog required by individuals with a  
8 disability pursuant to the American with Disabilities Act (ADA); and,

9  
10 THE CITY COUNCIL OF THE CITY OF AUBURN DOES HEREBY FIND, ORDER,  
11 RESOLVE AND DECLARE AS FOLLOWS:

12  
13 1. The foregoing recitals are hereby true and correct;

14  
15 2. The Auburn City Council finds that the actions as set forth in this  
16 Resolution are in the public interest and necessary to the public health, safety,  
17 and welfare;

18  
19 3. The City Clerk is hereby directed to forward an executed copy of this policy  
20 the District Attorney, City Attorney, and Police Chief and to enter it in the Book  
21 of Resolutions of the City.

22  
23 DATED: June 14, 2010

24  
25 \_\_\_\_\_  
26 Bridget Powers, Mayor  
27  
28

1 ATTEST:

2  
3  
4 Joseph G. R. Labrie, City Clerk

5  
6 I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby certify  
7 that the foregoing resolution was duly passed at a regular meeting of the City  
8 of Auburn held on the 14<sup>th</sup> day of June, 2010 by the following vote on roll call:

9 Ayes:

10 Noes:

11 Absent:

12 Joseph G. R. Labrie, City Clerk

# EXHIBIT





## Report to the Auburn City Council

Action Item <span style="float: right;">8</span>
Agenda Item No. <span style="float: right;">1</span>
City Manager's Approval <span style="float: right;">[Signature]</span>

**To:** Mayor and City Council Members

**From:** Lance E. Lowe, AICP, Associate Planner  
Jennifer Solomon, Code Enforcement Officer

**Date:** May 24, 2010

**Subject:** A Public Hearing to Consider Amendments to Chapter 97 of the Auburn Municipal Code Relating to Animals, Including Specific Provisions For the Spay, Neuter and Breeding of Pit Bull Dogs

### The Issue

Shall the City Council consider amendments to Chapter 97 of the Auburn Municipal Code relating to animals, including specific provisions for the spay, neuter and breeding of pit bull dogs?

### Conclusions and Recommendation

Staff recommends that the City Council take the following actions:

- A. Adopt a Statutory Exemption prepared for the amendment of the City Municipal Code Chapter 97 entitled Animals, as the appropriate level of environmental review, in accordance with Section 15061 (b)(3) of the California Environmental Quality Act (CEQA) and Guidelines;
- B. Adopt Findings of Fact for approval of the Amendments to Chapter 97 of the Auburn Municipal Code;
- C. Introduce and hold a first reading, by title only, of the Animal Regulations Ordinance amending various sections of Chapter 97 of the Auburn Municipal Code relating to animals, thereby establishing standards and criteria, in accordance with State law, for the spay, neutering and breeding of pit bull dogs (**Attachment 1**); and,
- D. Adopt a Resolution establishing an updated fee schedule to implement the amended Animal Regulations Ordinance as presented (**Attachment 2**).

### Background

On November 9, 2009 the City Council initiated an ordinance amendment to update the City's animal regulations (Chapter 97 of the City Municipal Code). A main topic of discussion during the November 9<sup>th</sup> meeting was regulations pertaining to dogs. Except for spay, neuter and

breeding requirements, California law does not permit breed specific regulations. The draft Animal Regulation Ordinance is consistent with State law.

On January 25, 2010 the City Council considered various options to address dangerous dogs. Based upon the discussions at both the November 9, 2009 and January 25, 2010 City Council meetings (**Attachments 3 & 4**), staff has proposed amendment to Sections of Chapter 97, which addresses those concerns. The more salient sections of the draft ordinance include, but are not limited to: 1) Mandatory Spaying and Neutering of Pit Bulls; 2) Penalties for Unaltered Pit Bulls; 3) Limitations on Number of Dogs within a Household; 4) Animals at Large; Leash and Confinement of Dogs Required; 5) Potentially Dangerous or Dangerous Dog Classification; 6) Seizure and Impoundment of Dangerous Dogs or Potentially Dangerous Dogs; 7) Restraint of Potentially Dangerous Dogs; 8) Possession or Control of Potentially Dangerous Dogs by Certain Persons Prohibited; 9) Identification of Potentially Dangerous Dogs; and, 10) Destruction of Dangerous Dogs.

In addition to the aforementioned topics, staff has also prepared an updated fee schedule for Council consideration. The updated fee schedule is anticipated to recoup the costs of providing the services and/or enforcement outlined in the draft ordinance.

Below, staff has provided a brief narrative of the aforementioned sections as they relate to the draft amendments of the Animal Regulation Ordinance.

#### **1. Mandatory Spaying and Neutering of Pit Bulls:**

In review of other animal regulation ordinances within cities and counties, staff notes that jurisdictions, including but not limited to: City of Ripon, Sonoma County, City of Windsor, City of Santa Rosa, City of Manteca and City of Lancaster have all adopted animal regulations that have limited spay, neuter and breeding requirements for pit bulls solely (Note that the breed specific requirement in the City of Lancaster also includes Rottweilers). The adoption of breed specific spay and neuter requirements is in accordance with SB 861, which has been codified in the Food and Agricultural Code §31683 and Health and Safety Code §122330. These provisions allow jurisdictions to adopt spay and neuter programs that are breed specific, provided that certain reporting requirements are being administered.

As defined in the draft ordinance (**Attachment 1**) the definition of pit bulls is as follows:

**PIT BULL.** Any dog that a reasonable person would believe to be a Bull Terrier, Miniature Bull Terrier, American Pit Bull Terrier, Staffordshire Bull Terrier, American Staffordshire Terrier, and any other dog displaying physical traits that a reasonable person would believe to be those of any one or more of the above breeds, and any dog exhibiting those distinguishing characteristics that conform to the standards established by the American Kennel Club ("AKC") or United Kennel Club ("UKC") for any of the above breeds. The AKC and UKC standards shall be maintained on file and available for public inspection in the office of the Department.

Should the Council adopt a breed specific spay and neuter program as presented, the onus of breed determination is required of staff. As provided in the draft ordinance pursuant to Section 97.023, if an owner, guardian or keeper is unaware as to whether or not his/her unsprayed or

unneutered dog is a pit bull s/he may request the Department to make a determination. The determination is appealable, at which time the City Manager or his or her designee shall determine the appeal after examining the dog and any written evidence the owner may submit.

In addition to making the determination of breed, quarterly reporting to the State Public Health Veterinarian is required. Specifically, Section 97.024 requires that quarterly reporting shall, at a minimum, include: dog bites by severity; breed of dog; whether the dog was altered; and, whether the breed was subject to a spay or neuter program.

**Spay, neuter and breeding; exemptions:**

As drafted, certain exemptions are provided from the mandatory spay or neuter requirements for pit bulls noted above. Pursuant to section 97.022 these exceptions include the following:

- (A) The pit bull is under six (6) months of age.
- (B) The pit bull cannot be spayed or neutered without a high likelihood of suffering serious bodily harm or death due to a physical abnormality.
- (C) The pit bull has been present in the City for fewer than thirty (30) days.
- (D) The owner has obtained, or has submitted an application for, a breeding permit in accordance with this chapter.
- (E) The owner has submitted a request for a determination of the breed of the animal in question pursuant to this chapter which request remains pending.
- (F) The pit bull is a show dog.

**Breeding Exemptions:**

An owner of a pit bull may also be exempt from the spay and neutering requirements provided they obtain a Breeding permit. Breeding permits are provided in Section 97.052 et. seq. of the draft ordinance. Breeding permits shall be valid for one (1) year and may be issued to applicants provided that the following have been confirmed to be in the affirmative:

- (1) The applicant has submitted the appropriate forms and fees for a breeding permit.
- (2) The applicant has a space in which to breed pit bulls and raise the puppies that the Department is satisfied will contain the animals as well as provide them with safe, sanitary, and humane conditions, and which satisfies all applicable provisions of the Auburn Municipal Code and of State animal welfare laws. Failure of an applicant to allow an inspection of the proposed quarters for the animals necessary to allow this determination within two (2) weeks of the Department's request to do so shall be a basis to deny a permit.
- (3) The Department has evaluated the suitability of the particular pit bulls to be bred, including consideration of their lineage, age and health condition and determined that it is appropriate to breed those animals under the following standards:

- i. Any pit bull to be bred must be registered as a Bull Terrier, Miniature Bull Terrier, American Pit Bull Terrier, Staffordshire Bull Terrier, or American Staffordshire Terrier with the appropriate registry for its breed.
  - ii. Any pit bull to be bred must meet the breed standard of the registration agency for physical conformation and temperament.
  - iii. The registered pit bull has participated in at least one dog show approved by the registration agency during the previous 365 days.
  - iv. Any pit bull to be bred shall have the appropriate health screenings for its breed.
- (4) The Department shall automatically deny the permit if one (1) or more of the following occurs, and that decision shall be final:
- i. The applicant fails to pay the permit fee within two (2) weeks of notification that the application has been approved. An applicant may reapply for a permit after one (1) year.
  - ii. The applicant has a history of allowing dogs to run loose or escape, or has otherwise been found to be neglectful; or owned a dog determined to be a nuisance, potentially dangerous or dangerous while in his or her ownership.
  - iii. The applicant has violated any provisions of the Auburn Municipal Code related to animal husbandry.
  - iv. The applicant has violated any provisions of a pit bull breeding permit within the last year.
- (5) The Department may at reasonable times in the presence of an owner on one (1) or more occasions during the term of the permit, inspect the dogs' living quarters to ensure permit standards are satisfied. If the permittee does not allow the inspection within two (2) weeks of the Department's request to do so or if the property does not meet the required standards, the Department shall revoke the permit pursuant to section 97.054.

## **2. Penalties for Unaltered Pit Bulls:**

With certain exceptions, any pit bull dog over six (6) months of age shall be spay or neutered. The draft ordinance provides penalties for unaltered pit bulls.

In accordance with Section 97.025 initial violations for unaltered dogs shall require the dog owner to be fined and shall require, with certain exception that the owner or Department have the dog spayed or neutered at the owners' expense. If the dog owner does not spay or neuter their dog within the allotted two (2) week time period, then a second fine may be imposed which shall result in the dog being impounded by the Department at the owners' expense and the Department shall have the dog spay or neutered.



If a violation has resulted in serious injury, the violation may be punished as a misdemeanor pursuant to Section 10.99 of the Auburn Municipal Code. A hearing to determine whether or not the animal is to be classified as a dangerous dog and to order the destruction of the dog or its exclusion from the city, or any other remedy available by law may be determined at the hearing.

### **3. Limitations on Number of Dogs within a Household:**

In an effort to reduce the pack mentality, staff has proposed limiting the numbers of dogs within a household to two (2). A typical number of dogs per household for Cities and Counties are three (3) or four (4) dogs per household. Placer County limits the number of dogs within a household to four (4). With certain exceptions for breeding pursuant to a specific criteria, dogs in excess of the three (3) or four (4) per household are typically categorized as commercial kennels and are either prohibited in certain zones or require a Use Permit and Public Hearing before the Planning Commission.

Based upon the current and former dog licenses issued by the City, the majority of households have 1 dog (573 households or 74% of households). Twenty-one percent (21%) (161 households) of the households have two dogs; Four percent (4%) (31 households) of the households have 3 dogs and approximately one percent (1%) (10 households) of households have four or more dogs.

By restricting the number of dogs per household to two (2), approximately 5% to 6% of households that own dogs would be affected by the ordinance. The proposed ordinance provides a grace period (November 24, 2010) for licensing of dogs before the two (2) dog limitation becomes effective. If licensed by November 24, 2010 an owner of more than two (2) dogs may maintain the additional dogs, but no further dogs may be kept until the number of dogs falls below two (2).

To notify the public, staff plans to send letters to previous and current dog owners with licenses; post information on the City's web site; and, provide press releases.

### **4. Animals at Large; Leash and Confinement of Dogs Required:**

In an effort to have pet owners be more accountable for roaming dogs, staff has incorporated Section 97.027 that prohibits dogs to be at large; requires dogs to be leashed in public places; and, requires confinement of dogs on private property. At Large shall mean the following as defined in the draft ordinance:

**AT LARGE.** Any animal off the premises of its owner and not under restraint by leash, lead, rope or chain.

As defined above, the draft ordinance prohibits a person owning or keeping any animal from allowing the animal to be off the premises of its owner and not under restraint, with certain exception. Exceptions include:

- (A) Dogs secured within a vehicle or dog carrier.

(B) Animals trained to assist a person with a disability provided that they are accompanied by a disabled person whom they have been assigned to assist and evidence acceptable to the Department is provided demonstrating the animal's training as an assistive animal.

(C) Dogs participating in field or obedience training or exhibitions.

(D) Dogs assisting a security guard in the course of the security guard's duties.

(E) Police dogs.

(F) Dogs being trained for any of the purposes set forth in this section on private land with permission of the land owner, so long as the dogs are under direct control of a trainer to ensure that they remain subject to his or her control.

(G) Until such time as the Legislature amends Government Code Section 53074 to allow otherwise, this section shall be enforced as follows:

(1) No owner shall be cited because his or her dog is not leashed while on property owned or controlled by the owner unless the dog has strayed off the property.

(2) A dog that has strayed from but returned to private property owned or controlled by the owner of the dog shall not be seized or impounded, but a citation may be issued; provided however, that if the owner is not home, the dog may be impounded.

(3) Whenever a dog is impounded under this section from the property owned or controlled by the owner of the dog, the Animal Control Officer shall post an impound notice on the property. The notice shall provide the following information:

i. That the dog has been impounded and where the animal is held;

ii. The address and telephone number of the animal shelter or other place where the animal is held and the name of the person to be contacted regarding release of the dog;

iii. The ultimate disposition of the dog if no action to regain it is taken within a specified period of time by its owner.

#### 5. Potentially Dangerous or Dangerous Dog Classification:

The proposed ordinance contains definitions and provisions for "potentially dangerous" or "dangerous" dogs. Specifically, a "potentially dangerous" dog is defined as:

**POTENTIALLY DANGEROUS DOG.** Potentially dangerous dog shall mean any of the following:

1. A dog that, while at large, menaces, chases, displays threatening or aggressive behavior or otherwise threatens or endangers the safety of any person or domestic animal or livestock.

2. A dog that, without provocation, bites or causes physical injury to any person,

domestic animal or livestock.

As provided in the draft ordinance, special licensing, property signage, dog tags, ownership prohibition by certain persons, insurance requirements and provisions that the dog be restrained and muzzled at all times while in public, are required for "potentially dangerous" dogs.

The Animal Control Officer may impound a dog classified as potentially dangerous provided the officer has probable cause to believe the dog poses an immediate threat to public health or safety or the dog owner, after notice, fails to comply with the additional special licensing requirements noted above.

As required by law, due process hearing provisions are also provided in the ordinance and updated fee schedule. Costs for staff time to provide public hearing services will be paid by the applicant for both the administration costs and potential subpoena costs. Fees charged are anticipated to be recouped in their entirety.

As defined in the draft ordinance a "dangerous" dog is one that:

**DANGEROUS DOG.** A dangerous dog shall mean any of the following:

1. A dog that causes the serious injury or death of any person.
2. A dog that while at large causes the serious injury or death of any domestic animal.
3. A dog that engages in or has been trained to engage in exhibitions of fighting.
4. A dog that again engages in behavior defined as a potentially dangerous dog after its owner has received notice that the dog has been determined to be a potentially dangerous dog.

For dogs classified as dangerous dogs, the dogs shall be destroyed within the time periods specified in Section 97.050 notwithstanding that the Code of Civil Procedure may allow a longer time to file a petition for writ of mandate.

#### 6. **Seizure and Impoundment of Dangerous Dogs or Potentially Dangerous Dogs:**

Section 97.037 requires that a dog classified as dangerous shall be impounded upon service of the "dangerous dog" classification notice.

With respect to dogs classified as potentially dangerous, an Animal Control Officer may impound a dog classified as "potentially dangerous" when:

- (1) The officer has probable cause to believe the dog poses an immediate threat to public health or safety; or,
- (2) The owner, guardian or keeper of a dog classified as potentially dangerous has received notice of that classification and failed to timely comply with any of the requirements, or violated any of the prohibitions, of this chapter for keeping a potentially dangerous dog.

**7. Restraint of Potentially Dangerous Dogs:**

In accordance with Section 97.042 (A) An owner of a dog in the city determined to be potentially dangerous shall be restrained by one of the following methods:

- (1) Securely confine the dog indoors.
- (2) Securely confine the dog to property owned or controlled by an owner of the dog. Where the dog is confined by means of a fenced yard or enclosure, the fence or enclosure must meet the definition of a fence stated by this chapter above and must be constructed so as to prevent trespass by children.
- (3) Restrain the dog as provided in section 97.028.
- (4) Humanly confine the dog in a vehicle so that it can neither escape nor inflict injury on passersby.

(B) The Animal Control Officer may impose additional restraint requirements on the owners of a dog classified potentially dangerous, including requiring that the dog be muzzled whenever not secured indoors. Failure to comply with any order of the Animal Control Officer under this section is a violation of this chapter punishable as a misdemeanor under Section 10.99 of the City Municipal Code.

**8. Possession or Control of Potentially Dangerous Dogs by Certain Persons Prohibited:**

Section 97.046 states that no minor may possess or control a dog classified potentially dangerous at any time. In addition, no person who has been convicted of a crime involving the use or threatened use of violence or the illegal sale of controlled substances may possess or control an adjudicated dangerous dog or a dog determined to be potentially dangerous.

Section 97.051 further provides that the Animal Control Officer may upon finding of good cause prohibit for a period of three (3) years the possession or control of any dog by any person who violates the provisions of this chapter pertaining to the ownership or keeping of a dog classified potentially dangerous.

**9. Identification of Potentially Dangerous Dogs:**

Section 97.048 states that: (A) An owner of a dog classified potentially dangerous under this chapter or the law of another jurisdiction must within thirty (30) days of notice of the fact of that classification and at his or her own expense have either:

- (1) An identification number assigned to the dog by a nationally recognized tattoo registry service tattooed permanently on the inner left rear leg of the dog; or,
- (2) An identification microchip embedded under the dog's skin by a veterinarian. If the owner, guardian or keeper elects this option, he or she must have the procedure performed before the expiration of the thirty (30) day period.

(B) Compliance with this section shall be stayed upon a timely request for hearing under Section 97.032 or judicial review under Section 97.036 to contest the classification of the dog as potentially dangerous.

#### 10. Destruction of Dangerous Dogs:

Section 97.050 requires that: (A) An adjudicated dangerous dog shall be destroyed after the later of the following dates noted below. An adjudicated dangerous dog is defined as:

**ADJUDICATED DANGEROUS DOG.** Any dog in the city finally determined to be a dangerous dog after a hearing under section 97.032 or the lapse of the time to request a hearing, and an appeal under section 97.036, or a lapse of the time to initiate an appeal, or a dog in the city finally determined to be a dangerous dog under the laws and procedures of any other jurisdiction.

(1) The expiration of the time to request a hearing under Section 97.032 provided that a hearing is not timely requested.

(2) Five (5) days after personal service or ten (10) days after service by mail of the administrative hearing decision, unless within that time an action for judicial review of the decision is initiated under Section 97.036 of this Code and written notice is given to the Department of that fact.

(3) Twenty (20) days after the notice to the Department required by subparagraph (2) of this paragraph (A) unless:

i. A stay under Section 97.036(C) is granted, then after the expiration of the stay;

ii. If an action for judicial review is filed pursuant to Section 97.036, then two (2) days after personal service or seven (7) days after mail service of notice of entry of judgment or as otherwise specified in the order of the court.

(B) A dog owner may request a stay of the destruction of the dog pending the filing of an action for judicial review under Section 97.036 of this chapter by filing a written request for stay with the Department and making an advanced payment for kenneling costs. The stay shall be granted and effective for a number of days equal to the number of days of advanced kenneling costs received and shall be extended for such longer period as the owner posts additional kenneling costs with the Department or for such time as the Superior Court may direct.

(C) Every owner of the dog shall be jointly and severably liable to the City of Auburn for the cost of impoundment, kenneling, euthanasia, and disposal of the dog's remains.

**Animal Fee Schedule Update:**

The draft Animal Regulation Ordinance contains provisions that will require additional services to implement and/or enforce. Currently, the fee schedule for the services and/or enforcement provided in accordance with Chapter 97 does not fully compensate staff's time.

Should the Council adopt the draft Animal Regulations Ordinance as presented, then staff further recommends that the Council concurrently adopt the attached Resolution Adopting an updated Animal Fee Schedule.

The fee schedule includes a variation in fees between altered and unaltered dogs as a means to encourage dog owners to spay and neuter their dogs. Currently, the City charges \$6.00 per year for altered dogs and \$12.00 per year for unaltered dogs. The City's fees are low when compared to surrounding jurisdictions such as City of Lincoln, City of Rocklin, City of Roseville, Grass Valley, City of Folsom, County of Nevada and County of Placer. Of the jurisdictions noted, fees range from a low of \$20 dollars for altered dogs to a high of \$43 dollars for unaltered dogs. Generally, licensing fees for altered dogs are half the cost of unaltered dogs. Altered dog licensing fees range from a low of \$9 dollars to a high of \$21.50 per year.

Similar to other jurisdictions, higher fees are charged for unaltered dogs. For example, Sacramento County charges a \$15 dollar fee for altered dogs and a \$150 dollar fee for unaltered dogs.

Accordingly, staff recommends that the Council consider fees of \$18 dollars for altered dogs and a fee of \$36 dollars for unaltered dogs. The licensing fees proposed are consistent with the County of Placer.

Attached herewith as **Attachment 2**, staff has provided a fee schedule for Council consideration. The fee schedule proposed is commensurate with the anticipated staff time necessary to implement the amended Animal Regulations Ordinance. The fee schedule is also compatible with surrounding jurisdictions' fee schedules.

Based upon dog license information, approximately 16% of licensed dogs are unaltered.

Other fees required in the administration of the proposed Animal Regulation Ordinance include, but are not limited to: Potentially Dangerous Dog License fees of \$100.00; Breeding Permit License fees of \$115.00; and, Request for Hearing Fees of \$100.00.

**Alternatives Available to Council; Implications of Alternatives**

- A. Introduce and hold first reading of the Animal Regulations Ordinance and adopt Resolution for updated fee schedule as presented; or,
- B. Introduce and hold first reading of the Animal Regulations Ordinance and adopt Resolution for updated fee schedule as amended by the City Council; or,
- C. Provide further direction to staff.

**Environmental Determination**

In accordance with Section 15061 (b)(3) of the California Environmental Quality Act (CEQA) and Guidelines, a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is not a possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Accordingly, the project is determined to be Statutorily Exemption from the provisions of CEQA.

**Fiscal Impacts**

There will be additional costs associated with staff time to implement a new Animal Regulation ordinance; however, the proposed ordinance and fee schedule does provide for the collection of fees from the animal owner(s). It is anticipated that all such costs will be recovered in their entirety, based upon the updated fee schedule.

**Additional Information**

Please see the following Attachments for more details

1. Draft Animal Regulations Ordinance
2. Resolution Adopting An Animal Fee Schedule with Attached Fee Schedule
3. City Council Minutes dated January 25, 2010
4. Staff Report dated January 25, 2010 with Attachments
  - A – Additional procedures/requirements if spay/neuter ordinance for pit bulls is approved.
  - B – City Council Resolution No. 09-136 initiating ordinance amendment to update the City's animal regulations.
  - C – November 9, 2009 City Council Minutes
  - D – November 9, 2009 City Council Staff Report
  - E – Correspondence from interested parties, which include the following:
    1. October 30, 2009 email from American Humane Society
    2. November 9, 2009 FAX from law office of Judith A. Brecka
    3. November 9, 2009 email from Dawn Capp, Director for Coalition of Human Advocates for K9s & Owners
    4. November 10, 2009 email from Joan Ganz, Attorney at Law
    5. November 10, 2009 email from Katee
    6. December 10, 15, 24, 2009 and January 13, 2010 emails from Frank Ford

# ATTACHMENTS





# ATTACHMENT 1

ORDINANCE NO. 10-\_\_\_\_

AN ORDINANCE OF THE CITY OF AUBURN REPEALING SECTIONS 97.001 THROUGH 97.031 AND SECTIONS 97.065 THROUGH 97.077 AND ADDING NEW SECTIONS OF THE AUBURN MUNICIPAL CODE ESTABLISHING ANIMAL REGULATIONS WITH SPECIFIC PROVISIONS FOR PIT BULLS IN ACCORDANCE WITH SB 861

THE CITY COUNCIL OF THE CITY OF AUBURN DOES ORDAIN AS FOLLOWS

Section One: The City Council of the City of Auburn hereby finds:

(A) The legislature of the State of California approved a breed specific spaying and neutering program by adopting Senate Bill 861, codified at California Food & Agricultural Code § 31683 and California Health & Safety Code § 122331.

(B) SB 861 authorizes local governments to mandate the spaying and neutering of specific dog breeds.

(C) It is the City Council's intention that nothing in this Ordinance shall conflict with preemptive state or federal law and this ordinance shall be interpreted in light of that intent.

(D) It is the City Council's intention that nothing in this Ordinance shall be construed to prevent dog owners from maintaining animals capable of reproduction provided that they do so in compliance with the requirements of this chapter.

1 (E) To protect the public health, safety and welfare, it is the desire of the Cit  
2 Council to amend the City of Auburn Municipal Code consistent with SB 80  
3 regarding the mandatory spaying and neutering of pit bull breeds and th  
4 permissive maintenance of, and breeding of, intact pit bull breeds.

5  
6 (F) Restricting the maintenance and breeding of pit bulls capable of  
7 reproduction and requiring the spaying and neutering of pit bulls will not  
8 prevent responsible pet owners and pet breeders from owning, breeding, c  
9 showing pit bulls.

10  
11 Section Two: Chapter 97 is hereby amended to the Auburn Municipal Code  
12 in the form attached hereto as **Exhibit A.**

13  
14 Section Three: This Ordinance shall take effect thirty days following its  
15 adoption as provided by Government Code Section 36937.

16  
17 Section Four: Should any provision, section, paragraph, sentence or word  
18 of this Ordinance be rendered or declared invalid by any court of competent  
19 jurisdiction or by reason of any preemptive legislation, the remaining  
20 provisions, sections, paragraphs, sentences or words of this Ordinance shall  
21 remain in full force and effect.

22  
23 Section Five: The City Clerk shall certify to the passage and adoption of  
24 this Ordinance and shall give notice of its adoption as required by law.

1 DATED: May 24, 2010

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6 ATTEST:

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8 Joseph G. R. Labrie, City Clerk

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I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby certify that the foregoing ordinance was duly passed at a regular meeting of the City Council of the City of Auburn held on the 24<sup>th</sup> day of May 2010 by the following vote on roll call:

Ayes:

Noes:

Absent:

Joseph G. R. Labrie, City Clerk

ORDINANCE NO. 10- \_\_\_\_\_

AN ORDINANCE OF THE CITY OF AUBURN REPEALING SECTIONS 97.001  
THROUGH 97.031 AND SECTIONS 97.065 THROUGH 97.077 AND ADDING NEW  
SECTIONS OF THE AUBURN MUNICIPAL CODE ESTABLISHING ANIMAL  
REGULATIONS WITH SPECIFIC PROVISIONS FOR  
PIT BULLS IN ACCORDANCE WITH SB 861

**Exhibit A**

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**CHAPTER 97: ANIMALS****GENERAL PROVISIONS**

- 97.001 Findings
- 97.002 Purpose and Intent
- 97.003 Definitions
- 97.004 Charges and Amendments
- 97.005 Reserved
- 97.006 Impounded Animals; Aged, Diseased and Dangerous; Destruction
- 97.007 Animal Nuisances
- 97.008 License and Enforcement Powers
- 97.009 Reserved
- 97.010 Exhibition of License
- 97.011 Right of Entry

**DOGS**

- 97.012 License Required; Records
- 97.013 Reserved
- 97.014 Licenses; Puppies; Exceptions
- 97.015 Licenses; Tags and Certificates; Procurement; Term
- 97.016 Reserved
- 97.017 Licenses; Tags and Certificates; Duplicates; Fees
- 97.018 Licenses; Tags and Certificates; Exhibition
- 97.019 Licenses; Tags; Wearing; Removal
- 97.020 Removal of Animal Waste
- 97.021 Reporting of Dog Bites
- 97.022 Mandatory Spaying and Neutering of Pit Bulls; Exceptions
- 97.023 Determination of Breed
- 97.024 Reporting Requirements
- 97.025 Penalties for Unaltered Pit Bulls
- 97.026 Limitations on Number of Dogs within a Household
- 97.027 Animals at Large; Leash and Confinement of Dogs

## **POTENTIALLY DANGEROUS OR DANGEROUS DOGS**

- 97.028 Potentially Dangerous or Dangerous Dogs
- 97.029 Potentially Dangerous or Dangerous Dog Classification
- 97.030 Request for Hearing
- 97.031 Service of Notice
- 97.032 Administrative Hearing
- 97.033 Subpoenas
- 97.034 Affirmative Defense to Classification
- 97.035 Successor Owners or Keepers
- 97.036 Judicial Review; Notice of Intent; Review; Request for Record
- 97.037 Seizure and Impoundment
- 97.038 Alternative Impoundment
- 97.039 Mitigating Circumstances
- 97.040 Licensing Potentially Dangerous Dogs
- 97.041 Display of Potentially Dangerous Dog License Tag
- 97.042 Restraint of Potentially Dangerous Dogs
- 97.043 Notice of Escape or Disposition of Potentially Dangerous Dog
- 97.044 Posting of Premises Where Potentially Dangerous Dog is Maintained
- 97.045 Owner of Potentially Dangerous Dog to Permit Inspection
- 97.046 Possession or Control of Potentially Dangerous Dogs by Certain Persons Prohibited
- 97.047 Insurance Requirements for Owning or Keeping a Potentially Dangerous Dog
- 97.048 Identification of Potentially Dangerous Dogs
- 97.049 Spay or Neuter of Potentially Dangerous Dogs
- 97.050 Destruction of Dangerous Dogs; Request for Temporary Stay Pending Judicial Review
- 97.051 Restrictions on Possession or Control of Dogs by Certain Persons

## **BREEDING PERMITS**

- 97.052 Requiring Permit for the Breeding and Transferring of Pit Bull Puppies
- 97.053 Granting or Denying a Permit
- 97.054 Revocation of Permit
- 97.055 Transfer of Pit Bull Puppies
- 97.056 Fines for Failure to Comply with Permit Requirements
- 97.057 Exceptions to Permit Posting Requirements

## **GENERAL PROVISIONS**

### **§ 97.001 FINDINGS.**

The City Council adopts this chapter based upon the following findings:

- (A) The legislature of the State of California approved a breed specific spaying and neutering program by adopting Senate Bill 861, codified at California Food & Agricultural Code § 31683 and California Health & Safety Code § 122331.
- (B) SB 861 authorizes local governments to mandate the spaying and neutering of specific dog breeds.
- (C) It is the City Council's intention that nothing in this Ordinance shall conflict with preemptive state or federal law and this ordinance shall be interpreted in light of that intent.
- (D) It is the City Council's intention that nothing in this Ordinance shall be construed to prevent dog owners from maintaining animals capable of reproduction provided that they do so in compliance with the requirements of this chapter.
- (E) To protect the public health, safety and welfare it is the desire of the City Council to amend the City of Auburn Municipal Code consistent with SB 861, regarding the mandatory spaying and neutering of pit bull breeds and the permissive maintenance of, and breeding of, intact pit bull breeds.
- (F) Restricting the maintenance and breeding of pit bulls capable of reproduction and requiring the spaying and neutering of pit bulls will not prevent responsible pet owners and pet breeders from owning, breeding, or showing pit bulls.

### **§ 97.002 PURPOSE AND INTENT.**

- (A) It is the purpose and intent of this chapter to require the mandatory spaying and neutering of all pit bulls whose owners have not obtained a breeding permit pursuant to this chapter.
- (B) It is the purpose and intent of this chapter to establish a permit system allowing responsible owners to maintain pit bulls capable of reproduction and to breed pit bulls.

## § 97.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly requires a different meaning to serve the intent of this chapter.

**ADJUDICATED DANGEROUS DOG.** Any dog in the city finally determined to be a dangerous dog after a hearing under section 97.032 or the lapse of the time to request a hearing, and an appeal under section 97.036, or a lapse of the time to initiate an appeal, or a dog in the city finally determined to be a dangerous dog under the laws and procedures of any other jurisdiction.

**ANIMAL CONTROL OFFICER.** Any person authorized by the Department to license animals and to enforce local and state laws regarding animals.

**ANIMAL SHELTER.** The Placer County Animal Shelter or other animal shelter available to the city by contract or otherwise.

**AT LARGE.** Any animal off the premises of its owner and not under restraint by leash, lead, rope or chain.

**BREEDERS PERMIT.** A permit issued by the Animal Control Officer allowing the breeding of pit bulls in accordance with Section 97.052 et. seq. of this chapter and/or the maintenance in the city of one or more pit bulls which are capable of reproduction.

**CITY.** City shall mean the City of Auburn.

**DANGEROUS DOG.** A dangerous dog shall mean any of the following:

1. A dog that causes the serious injury or death of any person.
2. A dog that while at large causes the serious injury or death of any domestic animal.
3. A dog that engages in or has been trained to engage in exhibitions of fighting.
4. A dog that again engages in behavior defined as a potentially dangerous dog after its owner has received notice that the dog has been determined to be a potentially dangerous dog.

**DEPARTMENT.** Department shall mean the Police Department of the city unless the City Manager designates another department or officer of the city to implement this chapter either in addition to or in lieu of implementation by the Police Department.

**DOMESTIC ANIMAL.** Any animal customarily kept as a household pet.

**DWELLING UNIT.** A housing accommodation designed for, or occupied exclusively by, one (1) family.

**FENCE.** A wire, wood, metal, masonry, or other material, at least three feet in height, used as an enclosure for a yard, lot or field to effectively confine dogs within a specific area. Fences that are not solid and view-obscuring shall not be considered as effectively confining dogs unless the horizontal and vertical member (wires, rails, and posts) are securely fastened together and firmly anchored into the ground, providing a barrier beyond which a dog cannot penetrate.

**KENNEL.** Any person engaged in the commercial business of breeding, buying, selling or boarding three (3) or more dogs other than persons to whom the city has issued a breeding permit.

**MUNICIPAL CODE.** The City of Auburn Municipal Code.

**OWNER.** Any person owning or having the control, custody or possession of any animal.

**POTENTIALLY DANGEROUS DOG.** Potentially dangerous dog shall mean any of the following:

1. A dog that, while at large, menaces, chases, displays threatening or aggressive behavior or otherwise threatens or endangers the safety of any person or domestic animal or livestock.
2. A dog that, without provocation, bites or causes physical injury to any person, domestic animal or livestock.

**SERIOUS INJURY.** Any injury requiring treatment beyond first aid.

**PIT BULL.** Any dog that a reasonable person would believe to be a Bull Terrier, Miniature Bull Terrier, American Pit Bull Terrier, Staffordshire Bull Terrier, American Staffordshire Terrier, and any other dog displaying physical traits that a reasonable person would believe to be those of any one or more of the above breeds, and any dog exhibiting those distinguishing characteristics that conform to the standards established by the American Kennel Club ("AKC") or United Kennel Club ("UKC") for any of the above breeds. The AKC and UKC standards shall be maintained on file and available for public inspection in the office of the Department.

**UNLICENSED DOG.** A dog for which a license fee for the current year has not been paid or to which the tag provided for in this chapter is not attached.

#### **§ 97.004 CHARGES AND AMENDMENTS.**

The fees required by this chapter shall be adopted by resolution of the city council and shall be calculated to recover the costs the city incurs to implement the provisions of this chapter which pertain to the fee in issue. The city council may amend those fees from time to time.



**§ 97.005 RESERVED.**

**§ 97.006 IMPOUNDED ANIMALS; AGED, DISEASED AND DANGEROUS;  
DESTRUCTION.**

It shall be the duty of the Animal Control Officer to destroy forthwith any animal lawfully impounded which is, by reason of age, disease or other cause, unfit to be a pet or dangerous to people or domestic animals.

**§ 97.007 ANIMAL NUISANCES.**

(A) No person shall own, possess, harbor, control or keep on any premises, any dog, fowl or other animal, that howls, barks, bays, cries, squawks or makes any other noise so continuously or incessantly for a period of twenty (20) minutes or intermittently for an hour or more as to unreasonably disturb the peace or quiet of any person. Doing so is hereby declared to be a nuisance.

(B) In determining whether a violation of the provisions of this section exists, the following shall be considered:

- i. The volume of the sound.
- ii. The proximity of the sound to sleeping facilities.
- iii. The time of the day or night the sound occurs.

(C) Any person who shall keep or permit to remain on any premises any animal which is a nuisance as defined in subsection A of this section is guilty of a violation of this chapter provided that while the animal is making such a noise, no person or other animal is trespassing or threatening to trespass or no person is provoking the animal.

(D) After determination that a violation of this section 97.007 has occurred and prior to issuance of a citation pursuant to Sections 10.88 et seq. of the Auburn Municipal Code, an enforcement officer shall issue at least one warning to the owner or person having care, custody, control or possession of the animal creating the nuisance.

(E) This chapter shall not apply to public animal control agencies or shelters, society for the prevention of cruelty to animal shelters, or humane society shelters.

**§ 97.008 LICENSE AND ENFORCEMENT POWERS.**

Animal Control Officers shall charge and collect license and other fees required by this chapter and issue the certificates and tags prescribed by this chapter and issue citations in accordance with the laws of the city and the state.

**§ 97.009 RESERVED.**

**§ 97.010 EXHIBITION OF LICENSE.**

No owner shall fail or refuse to exhibit the registration of any animal required to be licensed pursuant to the provisions of this chapter when requested to do so by the Department or an Animal Control Officer.

**§ 97.011 RIGHT OF ENTRY.**

An Animal Control Officer is hereby authorized to enter upon any premises upon which they have reasonable grounds to believe any animal is kept in violation of any law, or for the purpose of taking up, seizing or impounding any animal found running at large or for the purpose of inspecting the premises to ascertain whether any law of the city or state in any way relating to the care, keeping, treatment or impounding of dumb animals is being violated. Such entry shall be into areas open to the public, with the consent of an owner or occupant of the area to be entered, or pursuant to a warrant or other judicial authorization.

**DOGS**

**§ 97.012 LICENSES REQUIRED; RECORDS.**

Every owner of any dog over six (6) months of age kept or maintained within the city shall procure a license within thirty (30) days of acquiring ownership of the dog and shall pay the license fee established by resolution of the city council. The Licensing-Revenue Officer shall keep a record of the name of the owner or other person to whom a certificate and tag have been issued and the number and date of the certificate and tag.

**§ 97.013 RESERVED**

**§ 97.014 LICENSES; PUPPIES; EXCEPTIONS.**

Dogs under six (6) months of age need not be licensed pursuant to this chapter kept confined entirely on the premises of the owner. An Animal Control Officer may require satisfactory proof, in writing, substantiating any claim of exemption under the provisions of this chapter.

**§ 97.015 LICENSES; TAGS AND CERTIFICATES; PROCUREMENT; TERM.**

(A) An Animal Control Officer shall procure and issue numbered license tags stamped with the name of the city. The tags shall only be issued upon the application of owners who have complied with the vaccination and fee provisions of this chapter and the license tag will be permanently issued for each dog and shall remain with that dog.

(B) The dog licenses required by this chapter shall be issued upon the payment of the fees established by City Council resolution for a fixed period commencing upon the date of the application and upon the showing of a valid certificate of rabies vaccination.

**§ 97.016 RESERVED.**

**§ 97.017 LICENSES; TAGS AND CERTIFICATES; DUPLICATES; FEES.**

Whenever a license tag issued for the current year by an Animal Control Officer has been stolen or lost, the owner of the dog for which the tag was issued shall pay a fee established by City Council resolution, shall file with the Department, a declaration of the loss under penalty of perjury, and shall receive a duplicate tag for the remaining portion of the year.

**§ 97.018 LICENSES; TAGS AND CERTIFICATES; EXHIBITION.**

No person shall fail or refuse to show, upon demand thereof, to the Animal Control Officer, or any officer of the city, a license certificate, rabies vaccination certificate and license tag for any duly registered dog kept or maintained in the city.

**§ 97.019 LICENSES; TAGS; WEARING; REMOVAL.**

A dog owner shall be responsible to ensure that the tag issued pursuant to the provisions of Section 97.015 is securely fixed to a collar, harness or other device worn at all times by the dog for which the registration is issued, except while the dog remains indoors or within a yard or pen enclosed by a fence.

**§ 97.020 REMOVAL OF ANIMAL WASTE.**

It is unlawful for any owner of any equine or canine to fail to immediately remove, and dispose of in a sanitary manner, any waste deposited by the animal(s) upon public property, or upon private property not owned or controlled by the person. The provisions of this section shall not apply to a blind person assisted by a guide dog.

## **§ 97.021 REPORTING OF ANIMAL BITES.**

(A) Any owner of a dog or other animal that bites a human or domestic animal shall provide his or her name and address and present his or her driver's license or other form of identification and information regarding the rabies vaccination of the dog or other animal to the person bitten or the owner of the animal bitten. The owner of the dog or other animal shall provide his or her current residence address. If the person bitten is a minor, the owner of the dog or other animal shall provide the required information to the parent or guardian of the minor.

(B) In addition to the above requirements, it shall be the duty of any person having knowledge of any animal which has bitten a human or a domestic animal within the City, not later than the end of the next business day, to report the facts to the Placer County Health Department, an Animal Control Officer or the Department and to furnish as much information about the incident as possible, including the date, time and location where the bite occurred, description of the animal or person bitten, name and license number and rabies vaccination history of the biting animal.

## **§97.022 MANDATORY SPAYING AND NEUTERING OF PIT BULLS; EXCEPTIONS.**

No person may own, keep, or harbor any pit bull that has not been spayed or neutered within the City unless:

(A) The pit bull is under six (6) months of age.

(B) The pit bull cannot be spayed or neutered without a high likelihood of suffering serious bodily harm or death due to a physical abnormality. A veterinarian must certify such a condition; determine any time frame after which the pit bull can be spayed or neutered. Within sixty (60) days of the operative date of this ordinance, or within thirty (30) days of taking possession or ownership of an unspayed or unneutered pit bull after that 60<sup>th</sup> day, the owner of every pit bull kept in the City must submit such documentation to the Department.

(C) The pit bull has been present in the City for fewer than thirty (30) days.

(D) The owner has obtained, or has submitted an application for, a breeding permit in accordance with this chapter.

(E) The owner has submitted a request for a determination of the breed of the animal in question pursuant to this chapter which request remains pending.

(F) The pit bull is a show dog. Within sixty (60) days of the operative date of this ordinance, or within thirty (30) days of taking possession or ownership of an unspayed or unneutered pit bull after that 60<sup>th</sup> day, the owner must submit a copy of the organization papers (American Kennel Club or United Kennel Club) or other

evidence satisfactory to the Department demonstrating the pedigree information and show dog registration.

**§ 97.023 DETERMINATION OF BREED.**

(A) If an owner is unsure whether an unspayed or unneutered dog is a pit bull, the owner may request the Department to make that determination.

(B) An owner may appeal the Department's determination that a dog is a pit bull by filing a written appeal on a form supplied by the Department, accompanied by an appeal fee as established from time to time by resolution of the City Council, within five (5) business days of the Department's determination. The City Manager or his or her designee shall determine the appeal after examining the dog and any written evidence the owner submits within sixty (60) days of the filing of the appeal. The hearing shall be informal and formal rules of evidence shall not apply. The decision of the hearing officer on appeal is final as to the City and subject to review pursuant to California Code of Civil Procedure Section 1094.5.

**§ 97.024 REPORTING REQUIREMENTS.**

The Animal Control Officer shall prepare quarterly reports to the State Public Health Veterinarian. The reports shall include, but not be limited to:

- (A) Dog bites by severity;
- (B) Breed of dog;
- (C) Whether the dog was neutered or spayed;
- (D) Whether the breed was subject to a spay or neuter program; and,
- (E) Any other information required by law.

**§ 97.025 PENALTIES FOR UNALTERED PIT BULLS.**

Violation of the requirements of this chapter may result in any of following penalties and no election of remedies shall apply:

(A) A first violation that does not result in serious injury shall be an infraction punishable by a fine as established in Chapter 10.99 of the Auburn Municipal Code. In addition to paying the fine the Department shall:

- (1) Require the owner to have the dog spayed or neutered and to provide documentation verifying that the spaying or neutering occurred within two (2) weeks. If the owner, guardian or keeper fails to have his/her pit bull spayed or neutered, the Department shall have the authority to impound the dog, and the

owner, guardian or keeper may be charged with a second violation of this chapter.

(2) Impound the dog and order the owner to arrange for a veterinarian within the County of Placer to spay or neuter the animal and pay the Department a fee established by City Council resolution which shall cover the costs of the City and the County for that impoundment and spaying or neutering. The Department shall deliver the dog to the veterinarian, and the veterinarian shall release the dog to the owner when the spaying or neutering has been performed.

(3) Impound the dog and have a veterinarian spay or neuter the dog and order the dog owner to pay a deposit established by City Council resolution prior to the procedure against which the cost of these such services will be charged, along with any other costs the city incurs with respect to the animal while it is impounded.

(B) A second violation of this section that does not result in a serious injury shall be subject to a fine for an infraction in accordance with Section 10.99 of the Auburn Municipal Code. In addition, a second violation may result in the Department impounding the pit bull and disposing of the pit bull in accordance with Sections 97.037 and 97.050 of this chapter.

(C) A third violation or any violation that results in serious injury may be punished as a misdemeanor pursuant to Section 10.99 of this code, a civil action for an injunction to restrain further violations of this code, a proceeding under Sections 97.037 and 97.050 of this code to determine that the animal is a dangerous dog and to order the destruction of the dog or its exclusion from the city, or any other remedy available by law or in equity.

#### **§ 97.026 LIMITATIONS ON NUMBER OF DOGS WITHIN A HOUSEHOLD.**

(A) From and after November 24, 2010, ("Effective Date") the maximum number of dogs permitted within a dwelling unit, as that term is defined in Section 159.001 of this code shall be two (2).

(B) An owner of more than two (2) dogs kept at a dwelling unit on the Effective Date may maintain those dogs notwithstanding the requirements of paragraph (A) of this section provided that (i) all the animals to be maintained were currently licensed by the city on the Effective Date and (ii) no further animals may be kept at that dwelling unit until the number of dogs falls below two (2).

**§ 97.027 ANIMALS AT LARGE; LEASH AND CONFINMENT OF DOGS REQUIRED.**

An owner must not allow an animal to be at large with the following exceptions:

- (A) Dogs secured within a vehicle or dog carrier;
- (B) Animals trained to assist a person with a disability provided that they are accompanied by a disabled person whom they have been assigned to assist and evidence acceptable to the Department is provided demonstrating the animal's training as an assistive animal;
- (C) Dogs participating in field or obedience training or exhibitions;
- (D) Dogs assisting a security guard in the course of the security guard's duties;
- (E) Police dogs;
- (F) Dogs being trained for any of the purposes set forth in this section on private land with permission of the land owner, so long as the dogs are under direct control of a trainer to ensure that they remain subject to his or her control.
- (G) Until such time as the Legislature amends Government Code Section 53074 to allow otherwise, this section shall be enforced as follows:

(1) No owner shall be cited because his or her dog is not leashed while on property owned or controlled by the owner unless the dog has strayed off the property.

(2) A dog that has strayed from but returned to private property owned or controlled by the owner of the dog shall not be seized or impounded, but a citation may be issued; provided however, that if the owner is not home, the dog may be impounded.

(3) Whenever a dog is impounded under this section from the property owned or controlled by the owner of the dog, the Animal Control Officer shall post an impound notice on the property. The notice shall provide the following information:

- i. That the dog has been impounded and where the animal is held;
- ii. The address and telephone number of the animal shelter or other place where the animal is held and the name of the person to be contacted regarding release of the dog;
- iii. The ultimate disposition of the dog if no action to regain it is taken within a specified period of time by its owner.

## POTENTIALLY DANGEROUS OR DANGEROUS DOGS

### § 97.028 POTENTIALLY DANGEROUS OR DANGEROUS DOGS.

Any person in possession or in control of a potentially dangerous dog as defined in this chapter shall not permit that dog to be or remain in any public place or premises in the City unless effectively muzzled; under restraint by a substantial leash, chain, or halter (not to exceed six feet in length); and under the control of a person who is competent to keep such animal under effective charge or control. This requirement is supplementary to any and all limitations and conditions which may be imposed upon said person by means of other permit specifications or conditions as may be required by this chapter. Except when so muzzled and leashed, adjudicated dangerous dogs and dogs which have previously been determined to be potentially dangerous, shall be kept indoors or enclosed by a fence, as defined in this chapter, and by a second enclosure within the fenced area that is closed on all sides to prevent escape, including a base and a cover or roof.

### § 97.029 POTENTIALLY DANGEROUS DOG AND DANGEROUS DOG CLASSIFICATION.

- (A) The Animal Control Officer is authorized to determine whether any dog is a potentially dangerous dog or a dangerous dog as those terms are defined in this chapter.
- (B) When the Animal Control Officer has reason to believe that a dog is potentially dangerous or dangerous, the officer shall investigate whether there is sufficient evidence to classify the dog as potentially dangerous or dangerous. Evidence may include observations and testimony by the Animal Control Officer or other witnesses who personally observed the animal's behavior. The evidence may include testimony about the dog's upbringing and the owner's control of the dog.
- (C) In determining that sufficient evidence exists to classify a dog as potentially dangerous or dangerous, an Animal Control Officer shall consider any mitigating circumstances described in Section 97.039 or in any regulation promulgated by the Department before reaching a determination; however, the existence of mitigating circumstances shall not in and of itself bar an Animal control Officer from classifying a dog as potentially dangerous or dangerous.
- (D) When an Animal Control Officer determines a dog to be potentially dangerous or dangerous solely on the uncorroborated testimony of a victim or a witness other than a law enforcement officer, the testimony must be given in writing signed under penalty of perjury.
- (E) If an Animal Control Officer determines a dog to be potentially dangerous or dangerous, he or she must serve the owner or keeper of the dog with notice of that



determination. The notice may state the basis of the determination, that the animal may be impounded or destroyed if it should engage in conduct that allows a determination that it is a dangerous dog under this chapter, the right to a hearing, and the manner and time in which a hearing must be requested, and the nature of the hearing under this chapter.

(F) The Department may establish and amend from time to time administrative regulations for the classification of potentially dangerous and dangerous dogs and shall give notice of those regulations in the manner required by law for the publication of ordinances of the city council.

#### **§ 97.030 REQUEST FOR HEARING.**

(A) If a dog owner disputes a determination that the dog is dangerous or potentially dangerous under Section 97.029, an impoundment under Section 97.037, the destruction of a dog under Section 97.050, or a restriction on possession or control of a dog under Section 97.051, he or she shall deliver a written request for a hearing to the Department within five (5) days of service of notice or else waive any further right to contest the action. The request must detail the factual basis to contest the action and any claimed affirmative defense or mitigating circumstance.

(B) If a timely request for hearing is submitted in accordance with Section 97.030(A), the Animal Control Officer shall schedule a hearing under Section 97.032 within sixty (60) days served on both the owner or keeper by regular mail as provided in Section 97.031 below. When an owner or keeper timely requests a hearing to contest impoundment and timely requests a hearing to contest a classification of a dog as dangerous or potentially dangerous, the hearing officer may schedule a single hearing on both requests.

(C) If no timely request for hearing is submitted, the determination of the Animal Control Officer becomes final, non-appealable and not subject to judicial review due to a failure to exhaust administrative remedies. In such case, any owner of a dog determined to be potentially dangerous shall comply with the requirements of this chapter for the keeping of such dogs in the City and any owner of a dog determined to be dangerous shall surrender it to an Animal Control Officer on request to arrange for it to be put down.

#### **§ 97.031 SERVICE OF NOTICE.**

(A) When another provision of this chapter requires that notice be given by the City under this subsection, the notice may be served in any of the following means:

(1) Personal service.

(2) Certified mail at the last known address, postage prepaid, return receipt requested. Simultaneously, the same notice may be sent by regular mail to the

last known address. If a notice that is sent by certified mail is returned unsigned, then service shall be deemed effective by regular mail, provided the notice that was sent by regular mail is not returned by the Post Office as undeliverable.

(3) Posting the notice conspicuously on or in front of the property where the dog was last known to be kept.

(4) If the Animal Control Officer issuing the notice knows that more than one (1) person is the owner of the dog, as the term "owner" is defined by this chapter, and that those persons have different mailing addresses, notice may be served by regular mail at each owner's last known address provided that at least one (1) owner is given notice by one of the methods described in Section 97.031(A)(1) through 97.031 (A)(3).

(5) Services by certified or regular mail in a manner described in this section shall be effective on the date of mailing.

(6) Failure of an owner to receive any notice served in accordance with this section shall not affect the validity of any proceedings taken.

#### **§ 97.032 ADMINISTRATIVE HEARING.**

(A) A hearing officer designated by the Department shall conduct the hearing under this section, which hearing shall be informal, open to the public and recorded on audiotape.

(B) The hearing officer shall permit every owner of the dog and any victim or complaining witness, and may permit others, to offer written or oral evidence. The hearing officer may limit the use of subpoenas, witnesses, testimony, evidence, rebuttal, and argument. The hearing officer may allow the cross-examination of witnesses to the extent necessary to ensure a fair hearing and may limit cross-examination of witnesses as necessary to maintain proper decorum and to prevent harassment. The Department may establish rules or regulations governing the selection and duties of hearing officers.

(C) The City bears the burden of proof at the hearing of the propriety of the action which is the subject of the appeal provided, however, that the owner has the burden to prove any affirmative defense or mitigating circumstance.

(D) The owner(s) and the Animal Control Officer presenting the case may be represented by counsel, and may present oral and written evidence. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Relevant admission evidence includes but is not limited to incident reports and witness affidavits.

Witnesses need not be sworn in except as otherwise provided in Section 97.029(D) of this chapter.

(E) The hearing officer's written determination shall be served as provided in Section 97.031 on all owners of the dog(s) affected by the hearing known to the City and all owners of the dog shall comply with the requirements of this chapter triggered by the determination and any order of the hearing officer before the later of (i) expiry of the time for judicial review of the decision without the filing of an action for such review pursuant to section 97.036 of this chapter or (ii) ten days after a final order of the Superior Court on such an action unless another time is specified by the Court.

#### **§ 97.033 SUBPOENAS.**

In any hearing conducted pursuant to this chapter, the hearing officer shall have power to examine witnesses under oath and the hearing officer and any dog owner may request the City Council to compel their attendance and/or the production of evidence by subpoenas issued pursuant to Government Code sections 37104 and 37105 or other applicable law. Any person who shall be served with such a subpoena to appear and testify or to produce books or papers issued in the course of any investigation or hearing who shall disobey or neglect to obey any such subpoena shall be guilty of a misdemeanor and punishable as provided in section 10.99 of this code. Subpoenas requested by a dog owner shall be supported by a declaration of the dog owner made under penalty of perjury showing good cause for issuance of the requested subpoena. The person requesting any subpoena issued pursuant to this section shall pay the witness fee established by statute for attendance of witnesses in civil actions in superior courts.

#### **§ 97.034 AFFIRMATIVE DEFENSE TO CLASSIFICATION.**

It shall be an affirmative defense to classification of a dog as dangerous or potentially dangerous under Section 97.029 if the dog owner or keeper demonstrates by a preponderance of the evidence at the hearing required by Section 97.032 that the behavior of the dog in question was directed against a willful trespasser into a building or fenced area on private property.

#### **§ 97.035 SUCCESSOR OWNERS OR KEEPERS.**

(A) Any person in the city who becomes the owner of an adjudicated dangerous dog or a dog that has been determined to be potentially dangerous shall comply with all the provisions of this chapter if he or she knows or reasonably should know of that fact.

(B) If an owner removes a dog from the city after it has been determined to be a potentially dangerous animal, that owner shall notify the agency responsible for enforcement of animal control laws in the place where the dog is to be relocated

within thirty (30) days of removing the dog there and failure to do so shall constitute a misdemeanor violation of this code punishable as set forth in Section 10.99 of this Code.

**§ 97.036 JUDICIAL REVIEW; NOTICE OF INTENT TO SEEK JUDICIAL REVIEW; REQUEST FOR RECORD.**

(A) Any determination made after a hearing under Section 97.032 shall be final and conclusive as to the City, and may not be appealed excepted as provided in subsection (B) of this section.

(B) Judicial review of the final decision under Section 97.032 may be had in the Superior Court pursuant to Food & Agriculture Code Section 31622 provided that the appeal is initiated within the time specified in Section 97.050(A)(2) of this chapter. The owner, guardian, or keeper of the dog may be charged the actual cost of transcribing or otherwise preparing the record.

(C) Unless the hearing officer or the Superior Court grants a stay, a dog owner shall comply with the requirements of this chapter for keeping a potentially dangerous dog pending judicial review.

(D) After service of a final decision on the parties and upon written request to be delivered to the owner or keeper of the dog within ten (10) days, or as soon thereafter as reasonably possible, the owner, guardian, or keeper of the dog may be charged the actual cost of transcribing or otherwise preparing the record.

**§ 97.037 SEIZURE AND IMPOUNDMENT.**

(A) A dog classified as dangerous under Section 97.029 shall be impounded as soon practical after service of the classification notice. If a dog initially classified as dangerous is determined after a hearing under Section 97.032 not to be dangerous, but potentially dangerous, then the dog shall be either released or held impounded as provided in this section as the hearing officer shall determine. If the dog is determined after a hearing to be neither dangerous nor potentially dangerous, the dog shall be released to its owner.

(B) An Animal Control Officer may impound a dog classified as potentially dangerous when:

(1) The officer has probable cause to believe the dog poses an immediate threat to public health or safety; or,

(2) The owner, guardian or keeper of a dog classified as potentially dangerous has received notice of that classification and failed to timely comply with any of the requirements, or violated any of the prohibitions, of this chapter for keeping a potentially dangerous dog.

(3) A dog impounded under this subsection (B) shall be released when:

i. An owner has complied with sections 97.042, 97.044, 97.047, 97.048 and 97.049 and any other conditions imposed by the hearing officer and paid the costs of impoundment; or,

ii. A decision maker determines that the dog should not be classified as potentially dangerous in a hearing or appeal under this chapter;

iii. An owner has demonstrated an intention and an ability to immediately comply with this chapter's requirements for keeping a potentially dangerous dog; and,

iv. An owner has secured the release of his or her dog from impoundment after payment of impound fees.

(4) If the dog is found to be potentially dangerous or dangerous, every owner of the dog shall be jointly and severally liable to the City for all impoundment costs. No dog for which impoundment costs are due shall be released until the charges have been paid.

#### **§ 97.038 ALTERNATIVE IMPOUNDMENT.**

When not contrary to public health safety, the Animal Control Officer shall, at the request of an owner or keeper, permit a dog which might otherwise be impounded pursuant to this chapter to be confined at the owner's expense in a mutually agreed kennel or veterinary facility provided that the operator of the kennel or veterinary facility agrees that the animal may not be released other than to an Animal Control Officer without the written consent of the Department.

#### **§ 97.039 MITIGATING CIRCUMSTANCES.**

A dog owner may prove the following mitigating circumstances by a preponderance of the evidence. The Department need not investigate whether any mitigating circumstances exist.

(A) The person injured or threatened by the dog was at the time:

(1) Abusing the dog;

(2) Assaulting another person;

(3) Committing or attempting to commit either a crime or an intentional tort on property owned or controlled by an owner of the dog;

(4) Acting in concert with another who was committing or attempting to commit any of the acts described in this subsection.

(B) The animal injured or threatened by the dog to be classified was:

(1) Threatening or attacking the dog to be classified when it was injured or threatened;

(2) Injured or threatened while the dog to be classified was working as a hunting dog, herding dog, or predator control dog on property owned or controlled by an owner of the dog and the animal was a species to be herded or hunted by the dog to be classified.

#### **§ 97.040 LICENSING OF POTENTIALLY DANGEROUS DOGS.**

An owner of a dog classified potentially dangerous under this chapter must obtain a potentially dangerous dog license from the Department within five (5) business days of service of a potentially dangerous dog classification notice. A license fee in addition to the licensing fee required by Section 97.012 of this chapter shall be charged to the dog's owner to provide for the increased costs of monitoring compliance with the requirements of this chapter.

#### **§ 97.041 DISPLAY OF POTENTIALLY DANGEROUS DOG LICENSE TAG.**

An owner of a dog licensed under Section 97.040 must display that license on the dog's collar at all times.

#### **§ 97.042 RESTRAINT OF POTENTIALLY DANGEROUS DOGS.**

(A) An owner of a dog in the city found to be potentially dangerous under this chapter or the law of another jurisdiction must restrain the dog at all times by one of the following methods:

(1) Securely confine the dog indoors;

(2) Securely confine the dog to property owned or controlled by an owner of the dog. Where the dog is confined by means of a fenced yard or enclosure, the fence or enclosure must meet the definition of a fence stated by this chapter above and must be constructed so as to prevent trespass by children.

(3) Restrain the dog as provided in section 97.028.

(4) Humanly confine the dog in a vehicle so that it can neither escape nor inflict injury on passersby.

(B) The Animal Control Officer may impose additional restraint requirements on the owners of a dog classified potentially dangerous, including requiring that the dog be muzzled whenever not secured indoors. Failure to comply with any order of the Animal Control Officer under this section is a violation of this chapter punishable as a misdemeanor under Section 10.99 of the City Municipal Code.

**§ 97.043 NOTICE OF ESCAPE OR DISPOSITION OF POTENTIALLY DANGEROUS DOGS.**

An owner of any dog classified potentially dangerous under this chapter shall immediately notify the Department if the dog is on the loose or unconfined. The owner of such a dog must notify the Department within 48 hours if the dog dies, is sold, transferred, kept at a new location, or an owner changes addresses. An owner must provide the address where the dog is to be kept and of the name, address and telephone number of any new owner. Any new owner applying for a license for a dog which that owner knows or reasonably should know has been classified as potentially dangerous under this chapter or under the laws of any other jurisdiction regulating potentially dangerous or dangerous dogs, must inform the Animal Control Officer, of the fact.

**§ 97.044 POSTING OF PREMISES WHERE POTENTIALLY DANGEROUS DOG IS MAINTAINED.**

Within five (5) days of the classification or immediately upon relocating the dog to new premises in the City, whichever is later, an owner of a dog found to be potentially dangerous under this chapter or the laws of another jurisdiction must display on any premises where the dog is kept a sign visible to the general public and approved by the Animal Control Officer depicting a menacing dog and warning there is a potentially dangerous dog on the premises.

**§ 97.045 OWNER OF POTENTIALLY DANGEROUS DOG TO PERMIT INSPECTION.**

An owner of any dog in the city which has been classified potentially dangerous under this chapter or under the laws of another jurisdiction must consent as a condition of licensing the dog to inspection by the Animal Control Officer of the dog and of the property where the dog is kept at any reasonable time to verify compliance with the requirements of this chapter.

**§ 97.046 POSSESSION OR CONTROL OF POTENTIALLY DANGEROUS DOGS BY CERTAIN PERSONS PROHIBITED.**

(A) No minor may possess or control a dog classified potentially dangerous at any time. When a minor is keeping a dog that is later classified potentially dangerous, the dog must be removed from the City of Auburn or ownership or control of the

dog transferred to a new owner within fifteen (15) days of service of the classification notice.

(B) No person who has been convicted of a crime involving the use or threatened use of violence or the illegal sale of controlled substances may possess or control an adjudicated dangerous dog or a dog determined to be potentially dangerous under this chapter or under the law of another jurisdiction. Within fifteen (15) days of service of a notice of the requirements of this ordinance, such a person shall remove the dog from the City of Auburn or transfer ownership and control of the dog to a new owner and keeper who is not prohibited from owning the animal under this chapter and who does not reside with the person transferring ownership and control of the animal.

#### **§ 97.047 INSURANCE REQUIREMENTS FOR OWNING OR KEEPING A POTENTIALLY DANGEROUS DOG**

The Animal Control Officer may require an owner of a dog classified as potentially dangerous under this chapter or under the law of another jurisdiction to maintain liability insurance of at least \$250,000 covering any damage or injury caused by the dog. In determining whether to impose an insurance requirement, the Animal Control Officer must consider the size, strength, and aggressiveness of the dog, and any evidence concerning the dog's upbringing and its owners' control of the dog. The insurance must be maintained for as long as the dog is kept in the City of Auburn. An owner must provide proof of coverage acceptable to the Department. The insurance must be obtained and a certificate presented to the Animal Control Officer within thirty (30) days of the dog being classified as potentially dangerous and upon each renewal of the insurance policy.

#### **§ 97.048 IDENTIFICATION OF POTENTIALLY DANGEROUS DOGS.**

(A) An owner of a dog classified potentially dangerous under this chapter or the law of another jurisdiction must within thirty (30) days of notice of the fact of that classification and at his or her own expense have either:

(1) An identification number assigned to the dog by a nationally recognized tattoo registry service tattooed permanently on the inner left rear leg of the dog; or,

(2) An identification microchip embedded under the dog's skin by a veterinarian. If the owner, guardian or keeper elects this option, he or she must have the procedure performed before the expiration of the thirty (30) day period.

(B) Compliance with this section shall be stayed upon a timely request for hearing under Section 97.032 or judicial review under Section 97.036 to contest the classification of the dog as potentially dangerous.



**§ 97.049 SPAY OR NEUTER OF POTENTIALLY DANGEROUS DOGS.**

(A) Within thirty (30) days of notice that a dog in the city has been classified as potentially dangerous under this chapter or the law of another jurisdiction, an owner of that dog must provide written evidence satisfactory to the Department that he or she has had the dog spayed or neutered at his or her own expense by a licensed veterinarian.

(B) Compliance with this section shall be stayed upon timely request for hearing under Section 97.032 or judicial review under Section 97.036 to contest the classification of the dog as potentially dangerous.

**§ 97.050 DESTRUCTION OF DANGEROUS DOGS; REQUEST FOR STAY PENDING JUDICIAL REVIEW.**

(A) An adjudicated dangerous dog shall be destroyed after the later of the following dates:

(1) The expiration of the time to request a hearing under Section 97.032 provided that a hearing is not timely requested,

(2) Five (5) days after personal service or ten (10) days after service by mail of the administrative hearing decision, unless within that time an action for judicial review of the decision is initiated under Section 97.036 of this Code and written notice is given to the Department of that fact.

(3) Twenty (20) days after the notice to the Department required by subparagraph (2) of this paragraph (A) unless:

i. A stay under Section 97.036(C) is granted, then after the expiration of the stay.

ii. If an action for judicial review is filed pursuant to Section 97.036, then two (2) days after personal service or seven (7) days after mail service of notice of entry of judgment or as otherwise specified in the order of the court.

(B) A dog owner may request a stay of the destruction of the dog pending the filing of an action for judicial review under Section 97.036 of this chapter by filing a written request for stay with the Department and making an advanced payment for kenneling costs. The stay shall be granted and effective for a number of days equal to the number of days of advanced kenneling costs received and shall be extended for such longer period as the owner posts additional kenneling costs with the Department or for such time as the Superior Court may direct.

(C) Every owner of the dog shall be jointly and severally liable to the City of Auburn for the cost of impoundment, kenneling, euthanasia, and disposal of the dog's remains.

#### **§ 97.051 RESTRICTIONS ON POSSESSION OR CONTROL OF DOGS BY CERTAIN PERSONS.**

The Animal Control Officer may upon a finding of good cause prohibit for a period of three (3) years the possession or control of any dog by any person who violates the provisions of this chapter pertaining to the ownership or keeping of a dog classified potentially dangerous. The restriction will not be effective until the Animal Control Officer provides written notice of the prohibition in the manner described in Section 97.031, the opportunity to request a hearing under Section 97.032 and an opportunity to seek judicial review as provided in Section 97.036.

(A) The Animal Control Officer may upon finding a good cause prohibit the possession or control of any dog by the owner and keeper of a dog classified as dangerous under this chapter. The restriction will not be effective until the Animal Control Officer provides written notice of the prohibition in a manner described in Section 97.031, the opportunity to request a hearing under Section 97.032 and an opportunity to seek judicial review as provided in Section 97.036.

#### **BREEDING PERMITS**

#### **§ 97.052 REQUIRING PERMIT FOR THE BREEDING AND TRANSFERRING OF PIT BULL PUPPIES.**

(A) No person shall cause or allow any pit bull, as defined in this section, that is owned, harbored or kept within the City to breed or give birth without first obtaining a permit as described in this chapter.

(B) Keeping an unaltered male adult dog together with a female dog in heat in the same dog run, pen, room or any other space in which the dogs might breed is prima facie evidence that an owner is subject to the permit requirement of paragraph (A) of this section.

#### **§ 97.053 GRANTING OR DENYING A PERMIT.**

(A) An owner of a pit bull may obtain a breeding nontransferable permit with a one-year term. The permit may be obtained from the Department if all of the following conditions are met:

(1) The applicant has submitted the appropriate forms and fees for a breeding permit.

(2) The applicant has a space in which to breed pit bulls and raise the puppies

that the Department is satisfied will contain the animals as well as provide them with safe, sanitary, and humane conditions, and which satisfies all applicable provisions of the Auburn Municipal Code and of State animal welfare laws. Failure of an applicant to allow an inspection of the proposed quarters for the animals necessary to allow this determination within two (2) weeks of the Department's request to do so shall be a basis to deny a permit.

(3) The Department has evaluated the suitability of the particular pit bulls to be bred, including consideration of their lineage, age and health condition and determined that it is appropriate to breed those animals under the following standards:

i. Any pit bull to be bred must be registered as a Bull Terrier, Miniature Bull Terrier, American Pit Bull Terrier, Staffordshire Bull Terrier, or American Staffordshire Terrier with the appropriate registry for its breed (American Kennel Club, United Kennel Club, American Dog Breeders Association ("ADBA") or any other registry the Department the department determines to be bona fide.

ii. Any pit bull to be bred must meet the breed standard of the registration agency for physical conformation and temperament.

iii. The registered pit bull has participated in at least one dog show approved by the registration agency during the previous 365 days or the applicant has given written notice to a registration agency stating intent to include the dog in a dog show approved by that registration agency. For purposes of this section, a "dog show" is an event that is sanctioned by one or more of the dog registries listed above.

iv. Any pit bull to be bred shall have the appropriate health screenings for its breed. This includes, but is not limited to: Orthopedic Foundation for Animals ("OFA") or University of Pennsylvania Hip Improvement Program ("PennHIP") certification on hips, OFA certification on heart by a certified cardiologist and the American Temperament Testing Society temperament test.

(B) Breeders shall not allow female pit bulls to have more than one (1) litter per year.

(C) Upon approval of his/her application, the applicant must pay a permit fee established by City Council resolution to fund the cost of enforcing the requirements of this chapter.

(D) The Department shall automatically deny the permit if one (1) or more of the following occurs, and that decision shall be final:

- (1) The applicant fails to pay the permit fee within two (2) weeks of notification that the application has been approved. An applicant may reapply for a permit after one (1) year.
  - (2) The applicant has a history of allowing dogs to run loose or escape, or has otherwise been found to be neglectful; or owned a dog determined to be a nuisance, potentially dangerous or dangerous while in his or her ownership.
  - (3) The applicant has violated any provisions of the Auburn Municipal Code related to animal husbandry.
  - (4) The applicant has violated any provisions of a pit bull breeding permit within the last year.
- (E) The Department may at reasonable times in the presence of an owner on one (1) or more occasions during the term of the permit, inspect the dogs' living quarters to ensure permit standards are satisfied. If the permittee does not allow the inspection within two (2) weeks of the Department's request to do so or if the property does not meet the required standards, the Department shall revoke the permit pursuant to section 97.054 below.

#### **§ 97.054 REVOCATION OF PERMIT**

- (A) The Department may, after conducting a hearing, revoke a breeding permit for violations of the provisions of the Auburn Municipal Code. Within five (5) days of the Department's knowledge of any such violations, a hearing officer designated by the Department may notify the owner(s) of the pit bulls in writing of the violation and the penalties therefore, including revocation of the breeding permit. Unless hearing is waived by the owner(s) of the dogs, or the hearing is scheduled on an agreed date, the hearing officer shall set a hearing not more than sixty (60) days from the date of the violation notice. The hearing officer shall give written notice of the hearing to all owner(s) of the pit bulls of which the City is aware not less than five (5) days before the hearing.
- (B) The hearing shall be conducted under the standards for hearings under Section 97.032. Upon a finding of a violation, the hearing officer may impose appropriate remedies on any and all owners of the dogs at issue. Any violation(s) may also be a basis to deny future pit bull breeding permits under this chapter. The decision of the hearing officer is final as to the City but subject to judicial review under Code of Civil Procedure Section 1094.5.
- (C) Upon revocation of a permit, the permittees shall cease to breed pit bulls in the city. If upon revocation of a breeding permit, a dog is pregnant or puppies have been born, the owners shall remove the animals from the City or, if the Department authorizes the owners to do so in writing, wean the puppies and dispose of them within a time determined by the Department. If the Department reasonably

determines it necessary to ensure compliance with these requirements, it may impound adult pit bulls or puppies pending the dogs' owners' compliance with the requirements of this chapter and any order entered following a hearing under this chapter.

#### **§ 97.055 TRANSFER OF PIT BULL PUPPIES.**

(A) Any person who offers any pit bull puppies under six (6) months old for sale, trade, or adoption in the city must prominently identify a valid city breeding permit number on any advertisement, notice or other writing inviting offers to, making an offer to or effecting a transfer.

(B) No person shall remove puppies from a litter until the puppies are at least eight (8) weeks of age, fully weaned, have their first set of vaccinations, have been de-wormed and are in good general health.

(C) No breeder may transfer ownership or control of a pit bull puppy that is not registered by a registration agency as described in Section 97.053(A)(3) without arranging for the animal to be spayed or neutered before the transfer.

(D) Within three (3) weeks of the time that the litter is whelped, the breeder shall notify the Department in writing of the number of puppies live born. Within three (3) weeks after the breeder transfers possession of each puppy, the breeder shall notify the Department of the name, address, and telephone number of the new owner, guardian or keeper of each puppy.

#### **§ 97.056 FINES FOR FAILURE TO COMPLY WITH PERMIT REQUIREMENTS.**

(A) A violation of the breeding permit provisions of this chapter shall be an infraction punishable by a fine established by Chapter 10.99 of the Auburn Municipal Code. Such violations must be corrected within thirty (30) days.

(B) After thirty (30) days of the first citation, an owner fails to correct a violation of the breeding permit provisions of this chapter, he or she shall be guilty of an additional violation and an additional violation shall occur for each thirty (30) days that the original violation remains uncorrected. Any such violation may be punished as a misdemeanor under Section 10.99 of the Auburn Municipal Code.

(C) Each violation of Sections 97.055(A) through 97.055(D) shall be an infraction punishable pursuant to Section 10.99 of the Auburn Municipal Code.

**§ 97.057 EXCEPTIONS TO PERMIT POSTING REQUIREMENTS.**

The Department or an animal welfare and rescue organization exempt from income taxation under Internal Revenue Code Section 501(C)(3) that seeks adoptive homes for pit bulls need not comply with Section 97.055

DRAFT

RESOLUTION NO. 10-

RESOLUTION ADOPTING AN ANIMAL FEE SCHEDULE

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THE CITY OF AUBURN DOES HEREBY RESOLVE:

Section 1. The City Council considered at its regular meeting of May 2010, the attached Animal Fee Schedule pursuant to Auburn Municipal Code §97, which includes but is not limited to dog licensing, breed determination, impoundment, and appeals.

Section 2. The City Council has considered all of the evidence submitted into the administrative record which includes, but is not limited to:

1. Agenda report prepared by the City Clerk for the May 24, 2010 meeting.
2. Staff presentation at the public hearing held on May 24, 2010.
3. Public comments, written and oral, submitted at or prior to the public hearing.
4. All related documents submitted at or prior to the public hearing.
5. The City of Auburn General Plan, Zoning Ordinance, and all other applicable regulations and codes.

Section 3. In view of all of the evidence in the record, the City of Auburn City Council does hereby adopt the attached Animal Fee schedule.

DATED: May 24, 2010

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Bridget Powers, Mayor

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ATTEST:

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Joseph G. R. Labrie, City Clerk

I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby certify that the foregoing resolution was duly passed at a regular meeting of the City of Auburn held on the 24<sup>th</sup> day of May, 2010 by the following vote on roll call:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
Joseph G. R. Labrie, City Clerk



# CITY OF AUBURN ANIMAL FEE SCHEDULE

Resolution 10-\_\_

Adopted \_\_\_\_

Auburn Municipal Code, §97

Type of Application	Fee
<b>A. LICENSE FEES</b>	
1. Dog License <sup>1</sup>	
a. Altered	
1-year license	\$18.00
2-year license	\$36.00
3-year license	\$54.00
b. Unaltered	
1-year license	\$36.00
2-year license	\$72.00
3-year license	\$108.00
c. Potentially Dangerous Dog License	
Initial license	\$100.00
Annual/relocation license <sup>2</sup>	\$100.00
d. Late License Fee	\$10.00
e. Replacement of Lost Tag	\$6.00
f. Breeding Permit License (pit bull breeds)	\$115.00/dog
<b>B. OTHER FEES</b>	
1. Unaltered Pit Bull	
a. Breed Determination Appeal Fee	\$100.00+Vet Service Deposit
b. Veterinary Services	At Cost (\$200 deposit)
2. Request for Hearing Appeal Fee (per AMC §97.030)	\$100.00
3. Collection & Transport Fee	\$60.00
4. Impound Fee	At Cost
5. Owner Surrender (live or dead animals)	
a. Under 100 lbs	\$84.36
b. Over 100 lbs (private service required)	At Cost
6. Subpoena Fees	
a. Processing fee (per subpoena)	At Cost
b. Witness fee (per State statute)	At Cost

<sup>1</sup> The dog license fee shall not be levied for any dog license issued for: 1) a seeing eye dog owned by a blind or partially blind person; 2) any dog certified as a canine companion for independent living and owned by a disabled person; 3) a dog used by law enforcement personnel; or 4) any dog with a current rabies vaccination owned by a senior citizen over the age of 65.

<sup>2</sup> This fee will be applied to dogs that move from one address to another within the City and for those dogs that come into the City from another jurisdiction.

**AUBURN CITY COUNCIL  
MINUTES**

January 25, 2010

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, January 25, 2010 at 6:00 p.m. with Mayor Powers presiding and City Clerk Joseph G.R. Labrie recording the minutes.

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

Color Guard by Boy Scout Troup 277

**ROLL CALL:**

**Council Members Present:** J. M. Holmes, Kevin Hanley, Bill Kirby, Keith Nesbitt, Bridget Powers

**Council Members Absent:**

**Staff Members Present:** City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Public Works Director Jack Warren, Administrative Services Director Andy Heath, Fire Chief Mark D'Ambrogi, Police Chief Valerie Harris, Police Captain John Ruffcorn and Code Enforcement Jennifer Solomon.

**MAYOR'S COMMENDATIONS/PROCLAMATIONS/ACKNOWLEDGEMENTS/  
ANNOUNCEMENTS**

None.

**AGENDA APPROVAL**

City Attorney Michael Colantuono asked by MOTION a closed session be added to the end of the AUDA Meeting to discuss the hearing that will be taking place this Friday in the City vs. Daniel Coverston case on the ground that there is a need for immediate action that arose after the agenda was posted.

By MOTION add the closed session to the agenda. MOTION: Nesbitt/  
Hanley/Approved 5:0

## CONSENT CALENDAR

Council Member Holmes asked Item #6 on consent calendar be removed for discussion

1. **Minutes**

By **MOTION** approved City Council Minutes of 12/14/2009

2. **Amendment of City Ordinance Governing Claims Against the City**

By **ORDINANCE 10-01** introduced Section 33.116 of the Auburn Municipal Code regarding claims against the City.

3. **Fire Dispatch Agreement with Cal Fire for Fiscal Year 2009-2010**

By **RESOLUTION 10-04** approved and authorized the Fire Chief to execute the Dispatch Services Agreement amendment for Fiscal Year 2009-2010 with Cal Fire, The Department of Forestry & Fire Protection.

4. **Auburn Municipal Airport – East Area Hangar Project Amendment No. 2 to Consultant Agreement**

By **RESOLUTION 10-05** approved Amendment No. 2 to the consultant agreement with Mark A. Machado in an amount not to exceed \$7,500.

5. **Information Technology Strategic Assessment**

By **RESOLUTION 10-06** authorized the City Manager or his designee to execute an agreement with J-4 Systems to prepare an Information Technology Strategic Plan for the City of Auburn.

6. **Authorize the Establishment of and Search for a Contract Airport Manager**

Removed from consent calendar for discussion

\*\*\*\*\* End of Consent Calendar \*\*\*\*\*

By **MOTION** approved the Consent Calendar excluding Item 6. **MOTION: Holmes/Nesbitt/Approved 5:0**

6a. **Authorize the Establishment of and Search for a Contract Airport Manager**

Council Member Holmes asked if the Contract Airport Manager would be assuming some of the responsibilities from the current contractor, Mark Machado.

City Manager Bob Richardson advised that Mark Machado is currently employed to manage the construction of the additional hangers. He said the Airport Manager would provide on site staffing at the airport, ensure proper running of the airport, and handle airport leases and contract compliance. He said Mark Machado's contract will end when the construction on the hangers is completed. He said the Airport Manager will move forward based on the needs of the Airport.

Council Member Holmes inquired on the estimated cost of this position.

City Manager Bob Richardson said the City would like to do request for qualifications, primary duties and responsibilities, interview top candidates and then negotiate the most appropriate wage and bring that to the Council for consideration.

Council Member Holmes asked if the Contract Airport Manager would be available on weekends.

City Manager Bob Richardson said one thing they will be considering is flexibility of schedule to accommodate weekends.

Mayor Powers asked who will be handling leasing and marketing of the Industrial Park at the Airport.

City Manager Bob Richardson said leasing is currently being handled in-house by the Administrative Services Department and will remain there. Marketing has been with private sector but could always be looked at as additional job responsibilities.

By **MOTION** authorized the establishment of a Contract Airport Manager and directed the City Manager to begin searching for and negotiate a contract with a prospective Airport Manager to be recommended for approval at a future City Council Meeting.

**MOTION: Holmes/Nesbitt/Approved 5:0**

7. **Public Comment**

Bob Snyder of Auburn had 3 items that he believes requires action by the City Council. (1) Shaded Fuel Break, action needs to be taken before next fire season, (2) Vacated City Hall Building should be sold, (3) Appoint a City Clerk as opposed to Elected City Clerk.

**REPORTS**

8. **City Council Committee Reports**

Council Member Holmes said the Ad Hoc Brewery Lane Committee has a meeting set 2/17/10 with residents and Old Town Business Association regarding development of the property. He said the Sierra Economic Development Commission is doing a 2 ½ day boot camp program starting 1/26/10 to assist future/existing business owners. He met with OTBA and they are working on the parking recommendations to fully institute the City's parking study. He said the Placer County Transportation Planning Agency met with non-members of board to talk about transit consolidation in Placer County. He said their recommendation was to NOT move forward with this plan. He said Auburn Chamber of Commerce has a meeting 1/28/10 to work on improving "bicycling" in the City of Auburn to reduce vehicle traffic and increase endurance events. He suggested an application for the Placer County Air Pollution Control District Grant be completed by staff for bicycle racks throughout community.

Council Member Hanley commented on the shaded fuel break. He said the Greater Auburn Area Fire Safe Council met today and Fire Chief briefed everyone on current events. He said the MOU between the City and the Bureau of Reclamation has made its way to Washington D.C. and back and the hopes are to act on it soon. He said the lands owned by the Bureau of Reclamation are project lands and not public lands. He said the Fire Chief is working with BOR to get permission to go on those lands and clear brush. He said anyone interested in SACOG Blueprint can attend a 04/02/10 information session 830a.m. -11a.m. at Cal State Ballroom.

Council Member Nesbitt said the Streetscape History and Art Advisory Committee decided to treat each place along Streetscape as its own zone to "Paint the Picture of Auburn" accurately. He said he will bring a few recommendations of artwork back to the Council within the next month. He also said the Youth Advisory Committee met and one of the members suggested an internship program with local businesses. He said they are also interested in a project where they can help with some of the Victorians in Old Town.

Mayor Powers reported that the Economic Development Commission has been working on the ribbon cutting on 02/24/10 for the Streetscape. She said there is a meeting 01/26/10 at 2pm for anyone who would like to be involved. She said the Airport Industrial Business Park is trying to form an association. She said they will be meeting in early February, and if you are interested, contact her directly.

## **COUNCIL BUSINESS**

### **9. Update on Ordinance Amendment to Update Animal Regulations**

Director of Community Development Department Will Wong clarified that by California state law, the City of Auburn can not create breed-specific regulations, except in regards to spay, neuter and breeding requirements. He said when the draft ordinance is completed it will be available to public for review prior to approval. He said some options are: Spay, neuter and breeding requirements, spay and neuter all dogs, higher dog license for unaltered dogs, limit the number of dogs that can be owned, expanding penalties for vicious dogs or enact and expand leash and anti-roaming laws and penalties. He also discussed procedures and requirements the City of Auburn would have to follow if a breed-specific spay/neuter ordinance were approved. He said an informational letter is going to be going out to all dog owners that are currently licensed within the City.

Council Member questions follow regarding: (1) spay and neutering dogs and whether that has a direct effect on aggressiveness, (2) how to determine the breed of a dog, (3) the problem of irresponsible pet owners, (4) how the City could enforce new ordinance with current staffing levels.

Will Wong said the results have been mixed in surveys and discussions with other cities in regards to the effectiveness of breed-specific spay and neutering requirements. Spay and neutering would likely only lessen stray and roaming dogs. He also noted correspondence from American Humane Society support strategies other than spay/neutering, such as expanding leash and anti-roaming laws. He said many options could demand more staff time. He said the current Animal Control office also acts as the Evidence Officer for the Police Department.

Police Chief said it is going to be a cooperative effort of City Staff and the Police Department. She said over the last 5-year period, the City had 1,806 animal-related calls. She said 109 of the calls resulted in written reports. She said in 2009 there were 16 total dog bites and the same for 2008. She said in these dog-bite circumstances, 8 occurred because of a dog at large and 6 were family-related instances.

Council Member questions follow regarding (1) getting all dogs within the City licensed as opposed to a certain breed, (2) whether the City is prepared to enact a new ordinance of this kind, (3) a breed-specific ordinance having an appeal process, (4) the City's current ordinance and leash law (dog-at-large), (5) current dog licensing forms and (6) enclosure requirements for dogs of certain breeds.

Council Member Nesbitt said the fee for unsprayed or neutered would have to be increased significantly to encourage dog owners to spay their animals. He asked the following questions: (1) whether a rabies certificate states that an animal has been altered, (2) what the current policy is with unlicensed dogs and (3) how to track dogs that are known to be vicious.

Jennifer Solomon said when a judge deems a dog as "potentially dangerous" it stays on file for 3 years. She said there are requirements for housing the dog that the City enforces. She said there does not have to be contact or a bite occurring in these cases, it could be a less dangerous situation (such as barking or lunging), reported twice in 36 months.

Council Member Kirby emphasized that if the City passes an ordinance stating all animals must be spay or neutered (with the exception of show dogs, breeders, etc) reporting requirements would not be mandatory. He asked the following questions: (1) whether data has been pulled on cities who have the "all breed spay/neuter" ordinance, (2) how many households in Auburn currently have over 2 dogs, (3) if fencing requirements for specific dog sizes is possible. He said he would like to see statistics that include these issues was available before the legislation was enacted in other Cities. Council Member Kirby also said he has not received any correspondence from anyone within Auburn who is not in support of the spay/neuter ordinance for pit bulls.

Council Member Holmes clarified leash law meaning a physical leash or dog under control. He also asked about it not enforced at the local dog park. The Police chief noted that the leash law is not enforced in the dog park.

#### **Public Comment**

Dawn Capp, Director of CHACKO on behalf of 20 members in Auburn wanted to express opposition to breed-specific legislation.

Laura Pinnick of Auburn stated that any unaltered dog gives off a different scent to other dogs. She said she supports having all dogs spayed/neutered. She also said any limit on the number of dogs you own should be exempt those who owned more dogs before the ordinance is adopted.

Jason Minton of Auburn encouraged staff to look at more owner specific action, instead of targeting dogs themselves. He said the problem lies in the dog owner as opposed to the dog.

Pamela Gorman of Grass Valley, with Scooter's Pals, an animal rescue organization, always finds the number one problem to be pet overpopulation. Spay and neuter is the answer to that. She said all dogs should be spayed and neutered. She also said owner ordinances are also very important.

Council Member Hanley said he does not support the fee being higher for unaltered dogs in general. He said the pit bulls are indeed different than most dogs. He said he has seen studies where spaying or neutering a pit bull does have an effect. He said limiting the number of dogs owned is important to prevent backyard breeders. He would like licensing to list breed type so Auburn Police Department could do area checks on pit bull homes. He said San Francisco has a good ordinance and we should refer to theirs. He said the City should have a policy on what type of people can own pit bulls. Santa Monica has an ordinance requires pit bulls to be muzzled if in public. He feels that euthanizing the dogs in the recent pit bull attack was the right thing to do.

Council Member Holmes said whatever we do adopt, we have to hold the owners responsible.

Council Member Nesbitt said he appreciates all the information received from dog organizations. He stressed that this all is a result of a pack of 4 pit bulls that attacked a boy in September. He would like to see an ordinance that is "tight, specific and really leans on the owner to be responsible and if the owner is not responsible, it would allow for swift and decisive action on the other end of it."

Council Member Kirby commented on the following: (1) he is not opposed to breed-specific legislation (2) pit bulls are vicious dogs (3) he would prefer all dogs be spayed and neutered (4) the fees may need to be raised to cover services and (5) senior citizen discounts on animal licensing should be provided. He said we need to take "protective action" against this breed.

Mayor Powers said she supports including a definition for potentially dangerous dogs that will be broad enough to allow the city to take action before the dog bites. She also supports higher penalties for the owners, limiting the number of dogs in a household going forward only, and expanding on leasing laws and penalties.



10. **Potential Project List for Federal Funding Request - Cap to Cap Project List**

Public Works Director Jack Warren asked Council if they are interested in sending a representative to the Cap to Cap Conference this year. He reviewed the potential project list for 2010.

Council Member Holmes said the two high priority projects should be Lincoln Basin Drainage Infrastructure and the Electric Street Stormwater Diversion Pipeline Project. He said we should partner on the Regional Sewer Project with Placer County.

Council Member Holmes said if we get a formal request to Senator Boxer's office by February 26<sup>th</sup>, it will be considered along with many other projects.

Council member discussion followed covering these topics: (1) public perception of the propriety of sending someone to this event in the current economy, (2) importance of having a representative present, (3) the \$10 million already authorized through grant, and (4) Chamber supporting Lake Clementine.

**Public Comment:**

Bob Snyder of Auburn stated that he went to this event 2 years ago hoping to have success with Auburns projects in need. He said he was shocked by how little attention Auburn representatives received. He reviewed all the projected projects to give his opinion if any would be heard.

By **MOTION** make three projects top priority: Lincoln Basin Drainage Infrastructure and the Electric Street Stormwater Diversion Pipeline Project followed by the Regional Sewer Project jointly with Placer County.

**MOTION: Holmes/ Kirby/ Approved 4:1**

By **MOTION** approve sending Mayor Powers as the representative to Cap to Cap Conference in Washington D.C. fully funded by the City.

**MOTION: Kirby/ no second**

11. **Office of Traffic Safety and the California Highway Patrol's FAST Grant**

Police Captain John Ruffcorn presented information on the FAST Grant. By **RESOLUTION 10-07** approved supporting the Office of Traffic Safety and the California Highway Patrol's FAST grant objectives.

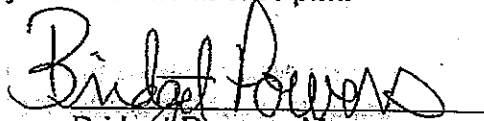
**MOTION: Holmes/ Hanley/ Approved 5:0**

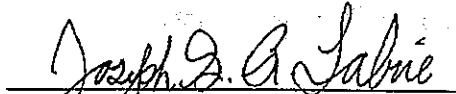
**ADJOURNMENT**

Adjourned to meeting of the Auburn Urban Development Authority at 7:56 p.m.

**RECALL OF MEETING TO ORDER**

Mayor Powers reconvened the City Council meeting at 8:12 p.m. The Council then adjourned to closed session to discuss City v. Daniel Coverston. At 8:20 the Council returned to open session and the City Attorney announced that no reportable action was taken in closed session. The Council then adjourned to its February 8<sup>th</sup> meeting without motion and by consensus at 8:21 p.m.

  
Bridget Powers, Mayor

  
Joseph G. R. Labrie, City Clerk



Action Item

Agenda Item No.

City Manager's Approval

## *Report to the Auburn City Council*

**To:** Mayor and City Council Members  
**From:** Wilfred Wong, Community Development Director  
**Date:** January 25, 2010  
**Subject:** Update on Ordinance Amendment to Update Animal Regulations

### **The Issue**

None. This is an update report. On November 9, 2009 the City Council initiated an ordinance amendment to update the City's animal regulations.

### **Conclusions and Recommendation**

None. This is an update report. On November 9, 2009 the City Council initiated an ordinance amendment to update the City's animal regulations.

### **Background**

On November 9, 2009 the City Council initiated an ordinance amendment to update the City's animal regulations. A main topic of discussion during the November 9<sup>th</sup> meeting was regulations pertaining to dogs. Except for spay, neuter and breeding requirements, California law does not permit breed specific regulations.

Staff is working on updating the City's animal regulations, which includes dogs. When the draft ordinance amendment is presented to the City Council it will include a variety of options that will address dangerous dogs. Following are some of the options staff is researching:

1. Spay, neuter and breeding requirements for pit bulls.
2. Spay and neuter all dogs.
3. Higher dog license fee for unaltered dogs.
4. Include a definition for "potentially dangerous" dogs that will be broad enough to allow action by the city before a dog bites.
5. Limiting the number of dogs to lessen the pack mentality.
6. Expand penalties for vicious dogs.
7. Enact and expand leash and anti-roaming laws and penalties.

According to the California Department of Public Health, staff found the following jurisdictions to have a dog breed specific ordinance for spaying/neutering:

1. City of San Francisco Pit Bulls

- |    |                    |                            |
|----|--------------------|----------------------------|
| 2. | City of Ripon      | Pit Bulls                  |
| 3. | Sonoma County      | Pit Bulls                  |
| 4. | City of Windsor    | Pit Bulls                  |
| 5. | City of Santa Rosa | Pit Bulls                  |
| 6. | City of Manteca    | Pit Bulls                  |
| 7. | City of Lancaster  | Pit Bulls and Rottweiler's |

Staff survey of surrounding jurisdictions did not find any dog breed specific ordinances. Following jurisdictions were surveyed:

1. Placer County
2. City of Loomis
3. City of Colfax
4. City of Roseville
5. City of Rocklin
6. City of Lincoln
7. City of Grass Valley
8. Nevada County
9. Sacramento County
10. City of Sacramento
11. City of Citrus Heights
12. El Dorado County
13. City of Placerville
14. City of Folsom
15. City of Marysville
16. City of Rancho Cordova

Staff is reviewing the requirements to enact a dog breed specific ordinance for spaying/neutering. New procedures and forms would need to be created (see Attachment A). One of the requirements would be a quarterly report to the State. For the reporting period of 07/01/09 to 09/30/09 the following dog bite data was submitted. Note there is no data available if the pit bulls were spayed/neutered.

1. City of Ripon
  - 8 total dog bites
  - 0 bites from pit bulls
  - 2 bites from dogs spayed/neutered
2. Sonoma County
  - 188 total dog bites
  - 12 bites from pit bulls
  - 103 bites from dogs spayed/neutered
3. City of San Francisco
  - 120 total dog bites
  - 35 bites from pit bulls
  - 60 bites from dogs spayed/neutered

**Alternatives Available to Council; Implications of Alternatives**

None at this time since this is an update report.

**Fiscal Impacts**

None at this time since this is an update report.

**Additional Information**

Please see the following Attachments for more details:

- A. Additional procedures/requirements if spay/neuter ordinance for pit bulls is approved.
- B. City Council Resolution No. 09-136 initiating ordinance amendment to update the City's animal regulations.
- C. November 9, 2009 City Council minutes.
- D. November 9, 2009 City Council staff report.
- E. Correspondence from interested parties, which include the following:
  - 1. October 30, 2009 email from American Humane Association.
  - 2. November 9, 2009 FAX from law offices of Judith A. Brecka.
  - 3. November 9, 2009 email from Dawn Capp, Director for Coalition of Human Advocates for K9s & Owners.
  - 4. November 10, 2009 email from Joan Ganz, Attorney at Law
  - 5. November 10, 2009 email from Katee
  - 6. December 10, 15, 24, 2009 and January 13, 2010 emails from Frank Ford.

# ATTACHMENT A



ADDITIONAL PROCEDURES/REQUIREMENTS IF  
SPAY/NEUTER ORDINANCE FOR PIT BULLS IS APPROVED

Quarterly Reports to the State:

1. Create statistical form
  - a. List number of bites
  - b. List gender
  - c. Severity of bite
  - d. Status of dog (spay/neuter)

Impounding:

1. Voluntary turn in; (create form) staff will transport to the county shelter, city will pay \$44.00 (owner release) and \$49.00 (euthanasia) to the county if not adoptable
2. Promissory note; staff will have owner sign an affidavit (create form), promising to take the dog within two weeks to have the altering done.
  - a. Staff to follow up
3. refusal turn in;
  - a. Draft and obtain administrative warrant from court
  - b. Enforce warrant, confiscate dog, go back to court with warrant return
  - c. County will hold dog until breed it determined at \$20.00 per day
  - d. Transportation from shelter to dog owners veterinarian for the altering (if owner request a specific vet for surgery rather than shelter)
4. Found at large; hold the dog for 3 to 10 days depending upon circumstance at \$20.00 per day

Determination of Breed:

1. Staff fills out a dog description form (create form)
2. Appeal form (if resident appeals decision of breed), (create form)
  - a. Establish contract with local vet/expert
  - b. Set up hearing
  - c. Hearing authority findings (create form)

Exceptions:

1. Annual breeding permit (optional) (create form)
  - a. Review of American Kennel Club, United Kennel Club, or American Dog Breeders Association papers
  - b. Review dog show papers
  - c. Home inspection
  - d. Litter record (create form)
  - e. 2<sup>nd</sup> inspection
  - f. Revoking a permit (create form)
    1. Send out notice of hearing
    2. Set up hearing

3. Hearing authority findings (create form)
2. Law Enforcement
3. Living assistant
4. Search and Rescue
5. Health reasons
6. Herding dog
7. Licensed kennel/business
8. Registered with American Kennel Club, United Kennel Club, or American Dog Breeders Association



# ATTACHMENT B



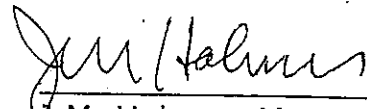
CITY COUNCIL RESOLUTION NO. 09-136

A RESOLUTION INITIATING ORDINANCE AMENDMENT TO UPDATE THE  
CITY'S ANIMAL REGULATIONS

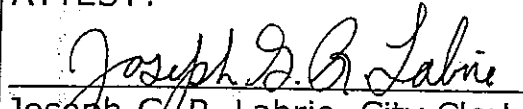
THE CITY COUNCIL OF THE CITY OF AUBURN DOES HEREBY RESOLVE:

That the City Council of the City of Auburn does hereby direct City S  
to initiate an ordinance amendment to update the City's animal regulations:

DATED: November 9, 2009

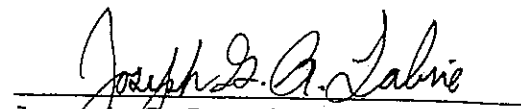
  
J.M. Holmes, Mayor

ATTEST:

  
Joseph G. R. Labrie, City Clerk

I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby certify  
that the foregoing resolution was duly passed at a regular meeting of the C  
of Auburn held on the 9<sup>th</sup> day of November 2009 by the following vote on re  
call:

Ayes: Nesbitt, Hanley, Kirby, Powers, Holmes  
Noes:  
Absent:

  
Joseph G. R. Labrie, City Clerk

# ATTACHMENT C



Council Member Powers announced the meeting of the Arts Commission. She said Council Member Nesbitt, Chair of the Streetscape History and Art Advisory Committee (SHAAC), will speak regarding the role and expectations of the Arts Commission.

Council Member Kirby said he attended a training session with Planning Commission Member Vitas. He said it was pointed out that cities need to be aware of the fact that they have a sphere of influence. He said the planning commissioners need to be directed to spend at least one session reviewing planning for our sphere of influence or it can be lost. He said he also attended the meeting of the Placer County Water Agency Board. He said the Board discussed the direction of the Agency and the City and the roles of the executive director.

Council Member Nesbitt advised that a Streetscape History and Art Advisory Committee meeting was held. He said the Committee walked the construction phase to get a feel for the project. He advised that there will be another meeting within the month.

## **COUNCIL BUSINESS**

### **9. Initiate Ordinance Amendment to Update Animal Regulations**

Mayor Holmes provided a brief statement to the public regarding the ordinance amendment. He reiterated that the City would not enact legislation to ban specific breeds of dogs from the community. He said the agenda item was not a discussion of banning dogs. He said the discussion would entail what action the City could take to strengthen and improve existing ordinances and hold owners responsible for the actions of their pets.

City Attorney Colantuono provided background to the Council about City animal control ordinances and those that could be enacted. He said the Food and Agricultural Code includes a clause that governs animals, potentially dangerous animals. He said that code would apply unless the City chose to replace it with its own ordinances. He explained that the City's ordinances are simple and largely rely on State law. He said State and Federal laws can be replaced or supplemented with the restriction that the City cannot regulate specifically by breed. He said the exception is mandatory spay, neuter and breeding programs. He explained if the Council chose breed-specific versions of those programs, quarterly reports to the State would be required regarding dog bites by breed. He said that would create the burden of statistical gathering and reporting.

City Attorney Colantuono said that another concern of City Attorneys regarding breed-specific regulations is that the breed of an animal is not

always "objectively determinable." He said it can be a matter of opinion. He said, without expert determination, identification of a breed by a law enforcement officer may be difficult. He said, "Even to the extent the Legislature allows us to regulate in a limited way by breed, there are practical obstacles to doing so." He said the City's current zoning ordinance is fairly outdated in "what it has to say about animal husbandry as a land use matter." He explained the current ordinance. He said the Council can further regulate a variety of issues regarding animals provided that dogs are not regulated in a breed-specific way, other than for spay, neuter, and breeding.

City Attorney Colantuono said, without direction from Council, staff will continue to develop animal control ordinances as the need arises. He advised that Council may want to give staff direction in prioritization or in specific areas of concern, and staff will take that direction and act upon it.

Community Development Director Wong said that due to the recent dog attack, the item has been very controversial. He said the Community Development Department has recently assisted the Police Department with animal issues. He advised that the Community Development Department has determined that the animal regulations need to be updated. He said such things as the number of animals, and standards for chickens and pigs need to be addressed. He said Code Enforcement Officer Jennifer Solomon has been working on updating the animal regulations. He said the planners are working on updating animal standards in the zoning ordinance. Mr. Wong said he wanted the Council to know that they have been working on the ordinance, and will continue to do so, as time permits.

Mayor Holmes asked how a citizen can report a stray dog and have the animal picked up. Jennifer Solomon recommended contacting the Police Department to ascertain whether or not an animal control officer is on duty who can respond. Police Chief Harris said a police officer can respond, if the need arises, and may use his discretion as to whether or not a citation should be issued.

Council Member Hanley said, "Putting the dog attack issue aside, and based on the fact that our animal regulations were last updated in 1997, what kinds of problems are you seeing based on neighbor complaints or other that you find our current ordinance does not really address?" Ms. Solomon advised that she has dealt with such issues regarding chickens and horses. She said that she felt the nuisance ordinance needed to be strengthened to include habitually barking dogs. She said neighboring jurisdictions have been reviewed in preparation of an update utilizing that information for the City of Auburn's revisions.

Council Member Nesbitt asked who determines the difference between "a potentially dangerous and a vicious animal." Police Chief Harris said it depends whether or not the animal has actually bitten someone, the degree of the attack, and its previous and current behavior. City Attorney Colantuono explained that "vicious" would mean seriously harming someone or killing an animal. He said "dangerous" means the animal has bitten someone without serious harm or "inspires fear in others." He explained that the determination denotes how the animal will be handled. He said a potentially dangerous animal has caused no injuries, but may be running at large and "engaging in aggressive behavior." He said those standards come from the Food and Agriculture Code.

Addressing the recent dog attack issue, City Attorney Colantuono advised that killing a dog in an attack is justified. However, a government entity, after the fact, when there is no immediate threat of harm, must give the owner due process before the dog can be put down. Chief Harris advised that the City does have a policy on how to handle these situations.

Council Member Powers asked if any provision could be in an updated ordinance to help prevent an attack as the one that occurred. Chief Harris said there are many variables but that possibly fence requirements and inspections may have helped. However, she said, that it comes down to the animal owner's responsibility. City Attorney Colantuono stated that the public needs to make the Police Department aware of any animals it views as potentially dangerous. Council Member Powers suggested that some educational materials be provided to the public and that other jurisdictions' ordinances be perused to assist in the City's update.

Council Member Kirby stated that there have been three recent issues regarding dog attacks. He said the issue is real and needs to be presented to municipalities. In addition, he said, "I do not believe in the supremacy of Legislature on issues this mundane. We should be able to make whatever laws we decide appropriate." He said he was not interested in breed specific regulations. He said the City needs to protect its citizens from having to make decisions regarding the use lethal force. He said the City can begin regulating the number of animals on one property site, implementing more severe penalties for owners, and enhanced enforcement while respecting the rights of responsible dog owners.

Council Member Hanley said he received information of an organization that is against breed-specific legislation. He said one of the alternatives provided was that owners should be encouraged to spay and neuter their dogs. Council Member Hanley said there are some responsible owners of Pitt Bulls and other dogs. He said those dogs are well-trained and well-behaved. He said he worries about another element that thinks Pitt Bulls

are "macho" and are not responsible owners. He said he is concerned with "gang influence as far as owners that are involved with drugs or gangs and have these dogs that they abuse." He said Pitt Bulls are the most abused dogs and that is the reason why 58% of euthanized dogs are Pitt Bulls. He said Placer County is offering free spay and neutering for Pitt Bulls.

Police Chief Valerie Harris said that there needs to be a balance in lieu of an extreme in control of ownership. She said if there are allegations of abuse or dog fighting, the Police Department will investigate. She suggested strengthening laws to provide for whatever action needs to be taken to alleviate the problem. She said Council may want to give direction on limiting the number of pets in a household, added enforcement and increased fines as a means of creating balance and improving safety within the community.

Mayor Holmes said this could be a possible use for the 211 phone system wherein a citizen can call a non-emergency number to report a concern or a specific situation.

City Attorney Colantuono advised that restrictions of dog ownership can be placed on a probationer prior to sentencing. The City must ask the District Attorney's Office to ask that the stipulation be placed on the person prior to the grant of probation.

Dawn Capp, Director of Coalition of Human Advocates for K9s & Owners (CHAKO), stated that she is an attorney and complimented the City Attorney on his summary of the issue. She argued that dogs that are not spayed or neutered are not necessarily more aggressive. She said that Contra Costa attempted to limit felons in ownership of dogs. She said it could not be done because of the Americans with Disabilities Act. She supported strengthening the existing ordinances and looking at responsible dog ownership.

Dale Smith, North Auburn resident, said the lengthy period of time it has taken to decide the fate of the dogs involved in the attack has caused the public to react as it has. He said the dogs should have been seized on the night of the attack.

Council Member Kirby said that non-neutered male dogs are more aggressive in any situation.

Council Member Hanley reminded the public that the City of Auburn encouraged the creation of the dog park in Auburn. He said most of Auburn residents are responsible dog owners. He said although he personally is aware of only two dog attacks in Auburn during his tenure,

the Council cannot ignore a public safety issue. He said there have been numerous attacks in other jurisdictions. He said that he has asked that staff provide the Council with a full range of options to consider.

Council Member Nesbitt said that he wants to look at strong, preventative measures in strengthening the ordinance. He said he wants an ordinance that allows for swift and decisive action if something occurs.

Council Member Powers asked that the ordinance amendment be placed higher on the priority list.

By **RESOLUTION 09-136** direct staff to initiate an ordinance amendment to update the City's animal regulations. **MOTION: Powers/Nesbitt/**  
**Approved 5:0**

10. **City Property, Brewery Lane**

Mayor Holmes advised that the item had been on a previous agenda and that additional information will be presented.

Community Development Director Will Wong said that when the item was presented to the Council on October 12, 2009, the main concern was the historic preservation area shown on the assessor's map. He said after staff researched the area it was found to be a requirement of the subdivision. He said, "Through the EIR they identified the brewery foundation and the staff requires, through its mitigation, the dedication of the property." He said there were no other limitations to the property other than the EIR did address saving the brewery foundation. He said there are some public utility easements on the property. He said if the City is to consider use of the property, it must locate the foundation.

Mayor Holmes said that several years ago the Old Town Business Association (OTBA) had submitted a letter suggesting that parking be considered for the area. City Manager Richardson said that letter did not go before Council for its direction. He staff had dealt directly with OTBA regarding the issue eighteen months to two years ago. He said it was decided to wait until after the completion of the parking study before dealing with some of the issues involved in utilizing that property. Mayor Holmes said he felt the City should continue to explore the property for additional Old Town parking. He said it would help with employee parking and relieve the parking areas in Old Town.

Council Member Hanley said that the City needs to work with active volunteers to initiate consideration of the property for parking. He suggested that a Leadership Auburn Class take on the project. However, the current class already has a project for the year. He said that Bruce



# ATTACHMENT D





## Report to the Auburn City Council

Action Item

Agenda Item No.

City Manager's Approval

**To:** Mayor and City Council Members  
**From:** Wilfred Wong, Community Development Director  
**Date:** November 9, 2009  
**Subject:** Initiate Ordinance Amendment to Update Animal Regulations

### The Issue

Should the City Council initiate an ordinance amendment to update the City's animal regulations?

### Conclusions and Recommendation

By Resolution direct staff to initiate an ordinance amendment to update the City's animal regulations.

### Background

Due to the recent dog biting incident, discussions have taken place about the City's animal regulations. Animal regulations were first adopted in 1973 and the last major update was in 1997.

Recently, the Community Development Department has been assisting the Police Department with animal issues. During this time staff identified the need to update the City's animal regulations. As time permits, the Code Enforcement Officer and planners have been working on drafting codes sections to update the Zoning Ordinance and Animal Chapter of the municipal code.

If the Council desires, staff can make this ordinance amendment a priority. Staff would not recommend updating the municipal code for only dogs. Many of the animal regulations pertain to not only dogs, but other animals.

During this time the Police Department will continue working on alternatives that balance public safety and dog ownership rights.

### Alternatives Available to Council; Implications of Alternatives

- A. Initiate an ordinance amendment. Staff will make this a priority project.
- B. Do not initiate an ordinance amendment. Staff will continue working on updating animal regulations, but will continue as a time permits project.

**Fiscal Impacts**

Approximate cost of \$600 to publish public hearing notices. The Community Development Department's budget for Legal Advertising (45-130-40400) can accommodate this cost.

**Additional Information**

Please see the following Exhibit for more details:

- A. City Council Resolution initiating ordinance amendment.

CITY COUNCIL RESOLUTION NO. 09-\_\_\_\_

A RESOLUTION INITIATING ORDINANCE AMENDMENT TO UPDATE THE  
CITY'S ANIMAL REGULATIONS

THE CITY COUNCIL OF THE CITY OF AUBURN DOES HEREBY RESOLVE:

That the City Council of the City of Auburn does hereby direct City Council  
to initiate an ordinance amendment to update the City's animal regulations

DATED: November 9, 2009

\_\_\_\_\_  
J.M. Holmes, Mayor

ATTEST:

\_\_\_\_\_  
Joseph G. R. Labrie, City ClerkI, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby certify  
that the foregoing resolution was duly passed at a regular meeting of the City  
of Auburn held on the 9<sup>th</sup> day of November 2009 by the following vote on roll  
call:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
Joseph G. R. Labrie, City Clerk

# ATTACHMENT E



----- Original Message -----

From: Patty Chavez <pattyc@AmericanHumane.org>

To: Michael G. Colantuono

Sent: Fri Oct 30 12:52:39 2009

Subject: BSL Information

Mr. Colantuono,

We have been alerted that you are taking the lead on actions the city council can take regarding animal control regulations. As such, please see the attached information letter on Breed Specific Legislation from the American Humane Association. I have also attached a fact sheet on pit bulls for your information.

Please let me know if we can be of further assistance.

Patty Chavez

---

Patty Chávez

Legislative Analyst

American Humane Association

206 N. Washington St., Suite 300

Alexandria, VA 22314

p = 703.836.PETS (7387)

f = 703.549.KIDS (5437)

www.americanhumane.org <<http://www.americanhumane.org/>>

Protecting Children and Animals since 1877



## AMERICAN HUMANE

*Protecting Children & Animals Since 1877*

Mr. Michael Colantuono  
City Attorney - City of Auburn  
1225 Lincoln Way  
Auburn, CA 95603

October 30, 2009

Dear Mr. Colantuono:

Our members in California have alerted us that the City of Auburn is considering a ban or specific restrictions on "dangerous" dogs such as Pit Bulls, Rottweilers, and German Shepherds; otherwise known as Breed Specific Legislation (BSL). As you may know, California law prohibits breed specific regulations. As such, the American Humane Association would like to provide you with information on why BSL does not work and some breed neutral alternatives to consider.

American Humane Association, a national, nonpartisan membership organization, was founded in 1877 to protect the welfare of children and animals. The Public Policy office has played a leadership role, working in coalition with other nonprofits, in addressing the critical need for preventative measures reducing the need for euthanasia of healthy, adoptable animals. Our concerns today reflect an over 100-year history of progressively advocating at the federal, state and local levels for laws that protect children and animals from abuse and neglect.

### **Why BSL Does Not Work**

Many states, counties and municipal governments are turning to legislation targeting specific breeds as an answer to dog attacks. While supporters of this type of provision – commonly called breed specific legislation (BSL) – argue the only way to be safe from dog bites is to eradicate "dangerous breeds" from the community, there is **little evidence that BSL reduces dog bites and dog attacks**. In contrast, studies have shown that it is not the breeds themselves that are dangerous, but unfavorable situations that are creating dangerous dogs.

Legislation targeting specific breeds simply does not work because dog attacks tend to be a result from several situations that are statistically more dangerous than a simple breakdown of breed culpability. According to the American Veterinary Medical Association, these factors are:

- Breeding: Dogs that are bred to be aggressive will be aggressive regardless of the breed;
- Socialization: Puppies need socialization to learn how to live in human society;
- Training: Beyond socialization, puppies need training so they will at least obey basic commands; and
- Health: Some dogs bite because they are uncomfortable or in pain.<sup>1</sup>

<sup>1</sup> See generally, The American Veterinary Association, Dog Bite Prevention: A Community Approach. JAVMA, Vol 218, No. 11, June 1, 2001. [http://www.avma.org/public\\_health/dogbite/dogbite.pdf](http://www.avma.org/public_health/dogbite/dogbite.pdf)

There are also practical problems with legislation targeting specific breeds. According to the American Pet Products Manufacturers Association, out of 73 million pet dogs, 31 million are classified by the owners as "mutts".<sup>2</sup> Additionally, while almost all legislation targeting specific breeds list "pit bulls", many breeds of dogs actually have the facial and body characteristics of the "pit bull", but are actually not pitbulls at all.

**Enforcing breed specific legislation can be burdensome and costly.** Many cities have repealed breed-specific legislation due to enforcement costs, which can be prohibitively high. Legislation targeting specific breeds of dogs is enforced by animal control agencies on tight budgets. It expands their enforcement duties without necessarily expanding their budget. Costs can include additional animal control staff necessary for enforcement of the law, kenneling both for dogs awaiting breed determination and/or appeal, and veterinary care.

Once Animal Control has a dog in their custody, proving that a particular dog is within the purview of the regulation usually requires the time and resources of the courts, along with expert testimony, which can be expensive to obtain. Even with an expert, the identification can be controversial.

In 2003, Prince George's County, Maryland formed a task force to evaluate the effectiveness of its vicious animal legislation, including its pit bull ban, and make recommendations for improvements and amendments. The task force recommended repealing the ban and strengthening the city's dangerous-dog law. The recommendation was based on numerous cost concerns:

- The cost of maintaining a single pit bull throughout the entire determination and appeals process was approximately \$68,000;
- Fees from pit bull registrations over a two year period generated only \$35,000 while the cost to the Animal Management Division for maintenance of pit bulls over the same period was about \$560,000;
- The costs did not include expenditures such as payroll, cross-agency costs, and utilities.<sup>3</sup>

Interestingly, the task force also found that while the county spends more than a quarter-million dollars each year to enforce the ban, "public safety has not improved as a result [of the ban]". Additionally, the task force noted that "there is no transgression committed by owner or animal that is not covered by another, non-breed specific portion of the Animal Control Code."<sup>4</sup>

Many counties in rural areas do not even have adequate funding to establish and run an animal control division. A lack of funding can make it difficult, if not impossible, to enforce any laws or regulation. Even when a county can fund a local animal control agency, it is often underfunded and understaffed.

<sup>2</sup> American Pet Manufacturers Association, 2007/2008 National Survey. [http://www.appma.org/pubs\\_survey.asp](http://www.appma.org/pubs_survey.asp)

<sup>3</sup> Vicious Animal Legislation Task Force, Report of the Vicious Animal Legislation Task Force

<sup>4</sup> *ibid.*



### Alternatives to BSL

There are alternatives to targeting breeds. **We must have dangerous dog laws that are breed neutral and identify dangerous dogs based on actions.** This can include enforcing leash laws; animal-at-large and licensing laws, with adequate penalties; enacting laws that prohibit chaining or tethering for excessive periods of time; and creating mandatory spay/neuter laws for shelters, as well as an aggressive education program and the provision of low-cost spay/neuter services. Other legal options can include obtaining a court ruling, after a dog has bitten a person, that the owner of the dog is required to have the dog neutered, muzzled at all times when off the owner's property, and to be microchipped.

Legislation targeting breeds of dogs not only puts the onus on Animal Control, it also allows bad owners to continue to be irresponsible. Most importantly, we need to educate dog owners so that environments are not created that foster biting and mauling incidences. All dogs must be socialized and trained, regardless of breed. As dog-bite law expert and attorney Kenneth Phillips states, "Any dog--literally any dog--can be a bad dog if the owner is a bad owner or the breeder is a bad breeder".<sup>5</sup> An untrained, un-socialized dog suffers from a lack of guidance from its owner, and consequently does not understand the world around him, or how to interact with humans or other dogs.

**Children should not be left alone with dogs** and must be taught to behave properly with and around dogs. Children make up almost half of all dog bites in the United States and nearly 80% of all dog bites are received from the family or neighbor's dog.

Instead of legislation specifically targeting breeds of dogs, we must have good laws that encourage **sterilization and leashing of dogs and enforce those laws.** Good leash laws and animal at large laws are of particular importance, although unfortunately, the punishment for these violations are typically minor, and are rarely enforced. Loose roaming dogs are more likely to threaten or attack a human. In 2005, ten people died because of dogs that were not contained on their owner's property. According to Karen Delise, "Of these ten fatal attacks by loose roaming dogs, eight cases involved owners allowing not only a single dog, but multiple dogs, to run loose."<sup>6</sup>

Not incidentally, all of the above cases involved dogs that were not spayed or neutered. Legislation funding for targeted spay/neuter programs is essential to reducing dog bites and attacks. The facts are clear - 97 percent of dogs involved in fatal dog attacks in 2006 were not sterilized. An unneutered male dog is 2.6 times more likely to bite than a neutered dog.<sup>7</sup>

Also of importance is the **enactment of tethering laws.** Dogs should not be extensively tethered - one out of every four fatal dog attacks involves a chained dog.<sup>8</sup> Chaining and/or neglect results in anxious, lonely, bored, under-stimulated, untrained, un-socialized, isolated dogs. Chained dogs are not "family" dogs - as such, they can never be given the same level of socialization as dogs that live in a household. They often will demonstrate higher levels of territoriality as they live in a well defined and limited territory.

<sup>5</sup> Mike McKee, A Legal Career Goes to the Dogs: L.A. Solo Represents the Human Victims of Canine Attacks, Recorder (S.F.), Dec. 27, 1999, at 1 (discussing the career of attorney Kenneth Morgan Phillips).

<sup>6</sup> See supra, note 2, page 164.

<sup>7</sup> ASPCA, Are Breed Specific Laws Effective?

[http://www.asPCA.org/site/PageServer?pagename=cruelty\\_dogfighting\\_breedspecific](http://www.asPCA.org/site/PageServer?pagename=cruelty_dogfighting_breedspecific)

<sup>8</sup> See supra, note 7.

Dogs that are chained cannot flee threatening situations, which not only make them more susceptible to torment by people, they are much more likely to react aggressively because of their fear.

Strict enforcement of all laws designed to protect or with the effect of protecting the public from dangerous dogs, including existing dangerous-dog laws, could reduce the number of dog bites and attacks. Aggressive enforcement of dangerous dog laws would ensure that dogs declared to be dangerous by a court ruling are muzzled or contained. Enforcing licensing laws enable a city to maintain accurate records of dogs and document any incident involving a dog within its jurisdiction. This gives county officials the information they need to enforce and verify continued compliance with regulations. Additionally, **enacting and enforcing leash and anti-roaming laws** also reduce the likelihood of bites or more serious attacks by requiring owners to train, socialize, and exercise control over their dogs.

On behalf of our members in California, thank you for this opportunity to comment on this important matter. We look forward to continuing to work with you. Please do not hesitate to contact Patty Chávez, Legislative Analyst, if we can be of further assistance.

Sincerely,

Allie Phillips, J.D.  
Vice President of Public Policy  
[AllieP@AmericanHumane.org](mailto:AllieP@AmericanHumane.org)

Patty Chávez  
Legislative Analyst  
[PattyC@AmericanHumane.org](mailto:PattyC@AmericanHumane.org)

Attachment: Pit Bull Fact Sheet

Office of Public Policy  
206 North Washington Street, Suite 300  
Alexandria, Virginia 22314  
(703) 836-7387 fax (703) 549-5437  
[www.americanhumane.org](http://www.americanhumane.org)

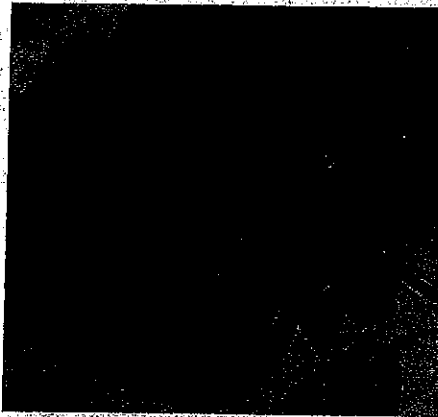


## AMERICAN HUMANE

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### Pit Bull Fact Sheet

1. **FACT:** There is no system in place to track statistics on dog bites and attacks accurately in the U.S., and many incidents are never reported so we don't know which breed bites the most. The Centers for Disease Control study "Breeds of dogs involved in fatal human attacks in the United States between 1979 and 1998" explains the inherent problems in attempting to calculate breed involvement in fatal attacks.<sup>1</sup> The CDC further explained that a major flaw in the study was the inability to factor in total breed populations relative to breed-related fatalities. The CDC concluded that fatal attacks are so rare as to be statistically insignificant in addressing canine aggression.



Pit Bull and Canine Good Citizen® Maison

2. **FACT:** According to Karen Delise in *The Pit Bull Placebo*, the classification of an attack as unprovoked is usually based on the declarations of owners who are unable to understand canine behavior, or are too busy to have seen the signals dogs usually display through body language or vocalization. Dogs do this with stares; body stiffening; positioning of ears, tail and head; and growling, to name only a few. Pit bulls give these signals as much as any other breed of dog.<sup>2</sup> Additionally, dog attacks tend to be a result of several factors that are statistically more dangerous than a simple breakdown of breed culpability. According to the American Veterinary Medical Association, these factors are:
  - Breeding: Dogs that are bred to be aggressive will be aggressive regardless of the breed.
  - Socialization: Puppies need socialization to learn how to live in human society.
  - Training: Beyond socialization, puppies need training so they will at least obey basic commands.
  - Health: Some dogs bite because they are uncomfortable or in pain.<sup>3</sup>
  - Spayed or Neutered: 97 percent of dogs involved in fatal dog attacks in 2006 were not sterilized.<sup>4</sup>
  - Tethering: One out of every four fatal dog attacks involves a chained dog.<sup>5</sup>

<sup>1</sup> CDC. (2000) Breeds of dogs involved in fatal human attacks in the United States between 1979 and 1998. <http://www.cdc.gov/ncipc/duip/dogbreeds.pdf>

<sup>2</sup> Delise, K. (2007). *The Pit Bull Placebo: The Media, Myths and Politics of Canine Aggression*. Anubis Publishing.

<sup>3</sup> See generally, The American Veterinary Association, Dog Bite Prevention: A Community Approach. JAVMA, Vol. 218, No. 11, June 1, 2001. [http://www.avma.org/public\\_health/dogbite/dogbite.pdf](http://www.avma.org/public_health/dogbite/dogbite.pdf)

<sup>4</sup> ASPCA, Are Breed Specific Laws Effective? [http://www.asPCA.org/site/PageServer?pagename=cruelty\\_dogfighting\\_breedspecific](http://www.asPCA.org/site/PageServer?pagename=cruelty_dogfighting_breedspecific).

<sup>5</sup> See supra, note 3.

**3. FACT: Pit bulls' jaws are the same as any other breed of dog.**

There are statements by experts that refute the locking myth, such as:

- Dr. I. Lehr Brisbin of the University of Georgia conducted research on the functional morphology of the jaws of various breeds and showed that:  
"...there were no mechanical or morphological differences between the jaws of American Pit Bull Terriers and those of any of the other comparable breeds of dogs which we studied. In addition, we found that the American Pit Bull Terriers did not have any unique mechanism that would allow these dogs to lock their jaws."<sup>6</sup>
- Dr. Howard Evans (professor emeritus, College of Veterinary Medicine at Cornell University, Ithaca, N.Y., and author of the world's definitive work on canine anatomy [*Anatomy of the Dog*]), in conjunction with Dr. Sandy deLahunta, one of the foremost dog neurologists in the country, along with Dr. Katherine Houpt, a leading dog behaviorist, wrote the following statement about the supposed "locking jaw" in pit bulls:  
"We all agree that the power of the bite is proportional to the size of the jaws and the jaw muscles. There is no anatomical structure that could be a locking mechanism in any dog."<sup>7</sup>

**4. FACT: Dr. Brady Barr of *National Geographic* conducted a study on animal bites. A German shepherd, American pit bull terrier and Rottweiler were tested using a bite sleeve equipped with a specialized computer instrument. The American pit bull terrier had the *least* amount of pressure of the three dogs tested.<sup>8</sup>**

The force of bite (in pounds of bite pressure) in the test subjects were:

Crocodiles: 2,500 lbs.  
Hyenas: 1,000 lbs.  
Snapping turtles: 1,000 lbs.  
Lions: 600 lbs.  
White sharks: 600 lbs.  
Domestic dogs: 320 lbs. (on average)  
Humans: 120 lbs.

**5. FACT: Pit bulls have better temperament than several other breeds. In a recent study of 122 dog breeds by the American Temperament Testing Society, pit bulls had a passing rate of 83.9%. That was better than miniature poodles (76.6%), beagles (80.3%) and collies (79.4%).<sup>9</sup>**

**6. FACT: While most dogs do not respond to pain while in the frenzied state of a severe attack, pit bulls feel pain just like other breeds do.<sup>10</sup>**

Pit bulls have the same nervous system as any other breed, and they do feel pain. Historically, dogs that would tolerate or ignore discomfort and pain and finish the task they were required to perform were the dogs that were bred and the type of dogs breeders strove to produce. This is the trait of "gameness" that so many breed fanciers speak of, which may be defined as "The desire to continue on and/or complete a task despite pain and discomfort."<sup>11</sup>

<sup>6</sup> Ontario Superior Court of Justice Affidavit of Dr. I. Lehr Brisbin, Jr., senior research scientist, University of Georgia.

<sup>7</sup> See supra, note 2.

<sup>8</sup> Dr. Brady Barr. *National Geographic*. "Dangerous Encounters: Bite Force." August 18, 2005.

<sup>9</sup> American Temperament Testing Society. Retrieved January 8, 2009. <http://www.atts.org/statistics.html>.

<sup>10</sup> See supra, note 2.

<sup>11</sup> New Hope Pit Bull Rescue. [http://www.nhpbr.org/index.php?option=com\\_content&task=view&id=18&Itemid=32](http://www.nhpbr.org/index.php?option=com_content&task=view&id=18&Itemid=32).

Judith A. Brecka  
Law Offices of Judith A. Brecka  
2018 Pico Blvd.  
Santa Monica, CA 90405  
(310) 452-1210 fax: (310) 314-7360

Facsimile Cover Sheet

November 9, 2009

To: Mayor Pro Tempore, Mike Holmes  
(530) 885-5508

From: Judith A. Brecka, Esq.  
(310) 314-7360

RE: Opposition to Breed Specific Ordinance

This fax contains privileged and confidential information intended only for the use of the addresses named above. If you are not the intended recipient of this fax or employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination or copying of this fax is strictly prohibited. If you have received this fax in error, please notify us immediately by telephone at (310) 452-1210 and return the original fax to us at the above address via U.S. mail. Thank You.



## The Staffordshire Bull Terrier Club of America

November 9, 2009

Mike Holmes  
Mayor Pro Tempore  
Auburn, CA

Via Fax: (530) 885-5508

Re: Proposed Breed Specific Legislation  
**OPPOSITION**

Dear Mayor Holmes:

As legislative chair of the Staffordshire Bull Terrier Club of America, I would like to register our opposition to any legislation based upon the breed of a dog.

Our club has approximately 400 members in every state in the United States including northern CA. Our club members attend dog shows and performance events held in the City of Auburn, CA.

Most breed specific ordinances include the Staffordshire Bull Terrier breed. However, the Staffordshire Bull Terrier is an old English breed commonly referred to as "the nanny dog". Our dogs are trustworthy and gentle around children and there has never been a recorded bite in the United States by a Staffordshire Bull Terrier. Because of difficulty by animal control in determining what is a "pitbull" the Staffordshire Bull Terrier is often placed into breed specific ordinances.

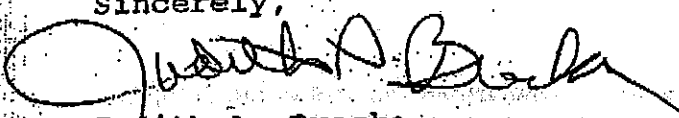
This causes families to either give up or euthanize gentle and loved family pets as they often cannot meet the onerous insurance requirements or other restrictions found in such ordinances.

Cities that have enacted breed specific ordinances often find that they do not lessen the number of dog bites. Effective enforcement of leash laws and a generic dangerous dog law combined with aggressive prosecution of irresponsible owners who allow their dogs to run loose and attack animals or people are the best deterrents to elimination of dog bites. In fact, cities with breed specific ordinances may incur some liability if a citizen is seriously injured by a breed of dog not listed.

Page 1 of Auburn, CA letter

We realize that there is no easy answer to this problem but we believe our proposal is a common sense solution that does work as it has been successful in other cities and states in this country. When there has been a headline grabbing incident it is not unusual for people to feel that they ought to pass a law to prevent this from reoccurring but the answer may be in effective enforcement of the laws you may have already enacted.

Sincerely,



Judith A. Brecka  
Legislative Liaison  
SBTCA  
2018 Pico Blvd.  
Santa Monica, CA 90405  
(310) 452-1210  
email: JBrecka@verizon.net

JB/j  
cc: council members

---

**From:** Dawn [mailto:dawn@chako.org]

**Sent:** Monday, November 09, 2009 10:22 PM

**To:** Mike Holmes

**Cc:** bridgetpowers@sbcglobal.net; mr.auburn@sbcglobal.net; hanleykh@jps.net; flyingsurgeon210@yahoo.com; mcolantuono@claw.us; loomisgal@cs.com

**Subject:** Re: Pit Bull ordinance: For your city council meeting tonight

Mayor Holmes and members of the city council,

I have relayed the summary of tonight's meeting to our 23 members who are Auburn residents. I would like, on their behalf, to extend my appreciation that you appear to be looking to improve your existing ordinances in a non breed-specific manner. However, I do still have some concerns, especially after hearing some of the comments that took place after "public comment" closed.

I want to clarify that I do support spay and neuter programs -- but not because neutering will somehow miraculously turn an unstable, aggressive dog into a gentle, passive dog. Rather, neutering males, in particular, can help to curb the desire to roam and can positively impact same-gender dog-to-dog aggression. However, as the owner of both an intact AKC champion show dog (who goes to schools to help teach kids about dog safety) and a spayed dog, and as someone who has operated a rescue for over 10 years and sterilized hundreds of dogs, in my experience, sterilization does not turn a human-aggressive dog into a passive one. In fact, Napa County recently had an incident wherein two neutered dogs broke out of a yard and attacked a pedestrian.

The problem that arises when one equates "intact" with "aggression" is that people who have aggressive, intact dogs often think that sterilization is a quick fix and are surprised to discover the behavior problem remains after the surgery. In fact, the behavior problem itself needs to be addressed... and if it cannot successfully be modified or the dog displays inappropriate aggression toward people, euthanization is the safest course of action... for all breeds. Of course, sterilization won't hurt, and it will certainly ensure that the genetic traits are not passed on to future generations, but it is not a miracle behavior cure.

I offer the following suggestions, many of which you've already discussed

- 1) Increase penalties for owners whose dogs injure others
- 2) Enforce existing licensing, nuisance, and leash laws
- 3) Provide greater incentives for spay/neuter for all breeds
- 4) Increase penalties for owners in violation of the leash laws (including owners who "walk" their dogs off leash and dogs found roaming), and
- 5) Work with local organizations to implement free responsible dog ownership class. In fact, we offer free education classes and many other organizations do as well

Finally, I would like to comment on the reference to the "Pit Bulls" that were shot near the school here in Sacramento. The press originally reported the dog as Pit Bulls. News footage in fact revealed that one dog was a German Shepherd/Doberman mix (in fact, you may see the photo here <http://www.chako.org/forum/blog.php?u=53>). The other dog's breed is undetermined, but most notably, the dog that "bit" two people during that incident was, in fact, the German Shepherd/Doberman mix. This demonstrates the inherent problems involved in breed identification... and this case is particularly applicable given the "obviousness" of the misidentification.



I heard from you, Mayor, that the city of Auburn will not consider BSL. I was prepared to email our Auburn and Sacramento members and let them know that Auburn is not going to implement BSL, but frankly, I'm not 100% convinced after listening to some of the remarks following close of public comment. Nevertheless, I will wait until I see a draft ordinance and hope that Auburn strengthens enforcement of its existing laws and works toward encouraging responsible dog ownership in general. I also wouldn't mind seeing stiffer penalties for irresponsible owners whose animals injure someone and/or repeatedly roam.

Sincerely yours,  
Dawn Capp, M.S., J.D.  
Director  
[www.chako.org](http://www.chako.org)

**Will Wong**

**From:** Joan Ganz [joanganz@atblaw.net]  
**Sent:** Tuesday, November 10, 2009 10:05 AM  
**To:** Will Wong; njrhs@inreach.com; bridgetpowers@sbcglobal.net; mr.auburn@sbcglobal.net; hanleykh@jps.net; flyingsurgeon210@yahoo.com  
**Subject:** FW: Updating dog regulations

**From:** Joan Ganz  
**Sent:** Tue 11/10/2009 9:47 AM  
**To:** w.wong@auburn.ca.gov  
**Subject:** Updating dog regulations

Dear Mr. Wong:

It was a pleasure speaking to you yesterday in regard to Auburn's updating their animal regulations. As discussed, I am a former resident of the City of Auburn and an owner of two Staffordshire Bull Terriers. I am also planning on moving back to Auburn by this summer if possible.

I understand that the end result wanted is to protect the public. I strongly believe that this could be accomplished by strong enforcement of the existing laws with stiff penalties to make people take them seriously. Dogs that are properly socialized, trained and confined seldom get into trouble. Yet if MSN becomes part of your new regulations, these are the dogs and owners who will be impacted, not your target population.

I strongly recommend that the best example of MSN if looked into is the city of Calgary. It's some of the most effective, well thought out animal control regulation in the northern hemisphere. Their Director of Animal Services is Bill Bruce. One of the most interesting and effective aspects of their program is the educational aspect of it. Please review their website: <http://www.calgary.ca/animalservices>.

I also remember years ago a program in which money was given to people who turned in their guns. Maybe a joint effort by the City and the Sheriff's Department can be made to pay people to bring in their dogs and have them spay/neutered. (free neuter and \$20..whatever)..Vets may be willing to participate as well.

I look forward to seeing your proposed regulations. And again hope the City will take responsibility and have their existing regulations enforced. Too many times, I have seen them not enforced. All dogs can be a danger if not properly cared for not just pit bulls. And remember, pit bulls have been part of American families for decades starting with our pioneers, our military, Helen Kellar as a guide dog, Buster Brown dog on shoes and of course, Petey, of the Little Rascals.

As an owner of two show Staffordshire Bull Terriers, a member of several national dog clubs and an interested party, I hope that my input is helpful. I would also volunteer to be of any help with information about MSN, alternatives, dog breeds etc. that you and your committee may want or need.

Thank you

**Joan Ganz**  
 Attorney at Law  
**Adelson, Testan, Brundo and Jimenez**  
 2500 Venture Oaks Way, Suite 220  
 Sacramento, CA 95833  
 916-481-8775  
 cell: 96-997-4680

1/15/2010

---

**From:** Katee [mailto:maggmay@frontiernet.net]

**Sent:** Tuesday, November 10, 2009 7:59 AM

**To:** flyingsurgeon210@yahoo.com; hanleykh@jps.net; bridgetpowers@sbcglobal.net; njrhs@inreach.com; Michael Colantuono; Robert Richardson

**Subject:** FW: Dangerous Dogs

Los Angeles, Santa Cruz, and a few other jurisdictions have been successful with an all-breed, mandatory spay and neuter ordinances. See suggestions below for dealing with dangerous dogs.

---

**From:** Katee [mailto:maggmay@frontiernet.net]

**Sent:** Monday, November 09, 2009 2:50 PM

**To:** 'Keith Nesbitt'

**Subject:** RE: No Breed Specific Ordinances

I live in Elk Grove. I think this is an issue facing most communities.

Three important steps that communities can take to deal with dangerous dogs are as follows:

1. Require that all dogs (and cats) older than 1-year be spayed/neutered with a few exceptions (show dogs/cats, service dogs, law enforcement dogs, exemption due to age or health) -
  - a. Unaltered dogs (particularly intact males) are much more likely to become aggressive than altered dogs. I believe the dogs that attacked JoJo Kerschner were not altered.
  - b. The more people who are irresponsibly breeding dogs, the more dogs that are likely to be neglected, abused, poorly socialized, and/or running at large (**a potential threat to humans and other animals**).
  - c. Unfortunately, our legislators were unable to pass a statewide mandatory spay and neuter law. However, some local communities have passed such ordinances, most notably Los Angeles.
2. Have strict laws/ordinances regarding irresponsible/reckless owners and force local animal control agencies and prosecutors to actually enforce them.
  - a. For example, I see the same neighborhood dogs repeatedly roam free in my area, but the Elk Grove Animal Services never cites the owners.
  - b. Prosecution of animal neglect and abuse is spotty throughout California unless a person is seriously injured or killed.

3. Better educate the citizens about how to be responsible pet owners and how to avoid being bitten by a dog.

**Additionally, the Animal Law Committee of the American Bar Association is in the process of developing a model law for states and local governments to consider regarding dealing with irresponsible/reckless dog owners.**  
**<http://www.abanet.org/tips/animal/home.html>**

---

**From:** Keith Nesbitt [mailto:mr.auburn@sbcglobal.net]  
**Sent:** Monday, November 09, 2009 2:00 PM  
**To:** Katee  
**Subject:** RE: No Breed Specific Ordinances

Thanks for the info. Do you live in Auburn? I am interested in what would you have done about the recent attack that nearly killed the young man.

**Thank you,**

**Keith A. Nesbitt**  
**Auburn City Councilman**  
Cell: (530) 320-2325  
Fax: (530) 888-6342  
mr.auburn@sbcglobal.net

## **Breed Discriminatory Legislation is not a Reasonable Response to Negligent Owners**

---

Breed discriminatory legislation is any ordinance or law that bans, or places special restrictions on, a group of dogs based upon breed or appearance.

Dog owners in 300 cities and towns in the United States live with special burdens and added costs because of ordinances banning or restricting dogs of one or more breeds and breed mixes. Thirty-six breeds of dogs, mixes of those breeds, and any dog whose physical appearance seems to meet the standard set in an ordinance have been restricted in various combinations and groupings. Breed discriminatory legislation is essentially a canine version of racial profiling.

These ordinances have relied on subjective opinions regarding a dog's physical appearance to determine its heritage. However, visual breed identification of a mixed breed dog is unscientific and is now likely to be contradicted by a DNA test. Cities must consider the "CSI effect" of dog DNA testing and its recent use in court cases. The burden and expense of proving the breed or combination of breeds in a dog will fall to the county or city.

Proponents of breed discriminatory legislation operate in the mistaken notion that regulating dogs on the basis of breed will make a community safer. There has never been any evidence that such is the case.

Breed discriminatory laws are frequently directed against dogs called "pit bulls," despite the fact that pit bull is not a breed of dog. The term is used to describe a continually expanding group of dogs that includes not only American Staffordshire Terriers, Staffordshire Bull Terriers, and, American Pit Bull Terriers, but more than twenty other pure breeds, and any dogs that are presumed, on the basis of appearance, to be mixes of one or more of those breeds. Despite the myths promoted in the media about dogs labeled as pit bulls, there is no scientific evidence that one kind of dog poses more of a danger to people than any other kind of dog.

Reckless owners of any dogs pose a threat to public safety. When bans or restrictions are instituted, scarce public resources are employed against responsible owners of the targeted group of dogs. These regulations do not apply to reckless owners of other dogs and the reckless owners of the targeted breeds will simply ignore them.

Focusing on the breed attribution of dogs diverts attention from responsible ownership practices. Experts have consistently identified responsible ownership practices as contributing to safe, humane communities. Restrictions and bans directed on the basis of breed compromise the human-animal bond and interfere with property rights. A community policing approach to preventing dog bites is much more effective.

**Will Wong**

---

**From:** frank ford [fordcgg@pacbell.net]  
**Sent:** Thursday, December 10, 2009 5:56 PM  
**To:** Mike Holmes; Will Wong; Valerie Harris; Kevin Hanley  
**Subject:** Dec 7 Pit Bull Attack - El Dorado Sheriff Seeks Dog & Owner  
**Importance:** High

Re: News Release - El Dorado County Sheriff's Department

Another Pit Bull attack, this time in El Dorado Hills this past Monday. Unleashed Pit Bulls are very common on hiking and walking trails around the region, particularly in the Auburn Recreation Area, and in the city of Auburn, too. Sadly, this is all too common, especially as the population of Pit Bulls increases.

Frank Ford

[http://www.edcgov.us:80/AnimalServices/PublicNotice/BitingDogSought\\_12102009.html](http://www.edcgov.us:80/AnimalServices/PublicNotice/BitingDogSought_12102009.html)

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Pet Adoption  
Pet Licensing  
Rescue Groups  
Volunteer  
Foster Care

12/10/2009

### Biting Dog Sought Bite Occurred on December 7 in El Dorado Hills

#### FAQs

Finding My Pet  
Found Pet  
Dog Behavior Tip Sheets  
Kids & Dogs  
Rabies

#### Location & Hours of Operation

El Dorado County  
Veterinarians  
Local Shelters  
Shelter-Wish List & Donations

For Non-Emergency  
Complaints,  
use our online form:

[Complaint Form](#)



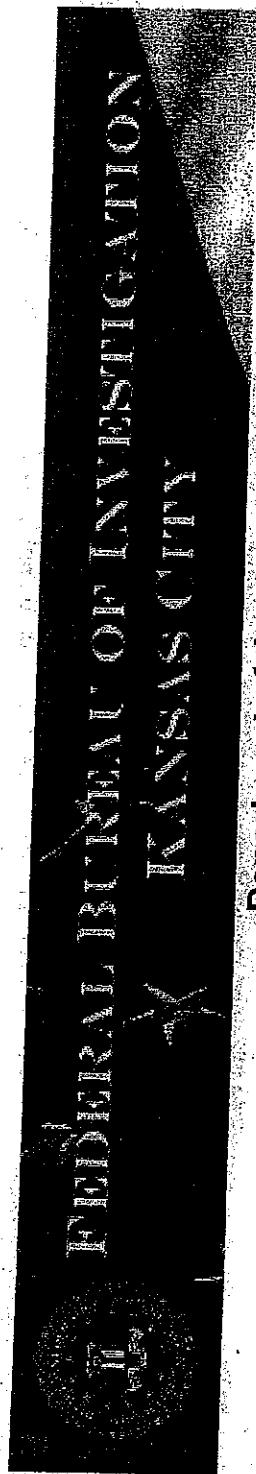
For Laws on Animals in  
El Dorado County:

El Dorado County Animal Services is searching for the owner of a dog that bit a female on Monday, December 7, at approximately 4:30 p.m. on an El Dorado Hills walking trail near White Rock Road and Town Center Boulevard. The dog, who bit the woman on the hand, is described as a blonde pitbull, wearing an orange vest with black lettering. The owner of the dog is believed to be a white male, approximately 5'8" to 5'10" tall, with a partial beard. The owner left the scene with the dog, and did not provide contact information.

The female who was bitten sustained minor injuries, but the skin was broken. Animal Services would like to speak to the owner of the dog to verify that the animal is current on his/her rabies vaccination so that the female does not have to go through post-exposure rabies treatments. Anyone with information is asked to contact Animal Services at (530) 621-5795.

## Will Wong

**From:** frank ford [fordcgg@pacbell.net]  
**Sent:** Tuesday, December 15, 2009 3:01 PM  
**To:** Robert Richardson; Will Wong; Valerie Harris; Kevin Hanley  
**Subject:** FBI Cracks Pit Bull Fighting Ring



## Department of Justice Press Release

**For Immediate Release**  
December 14, 2009

**United States Attorney's Office**  
**Western District of Missouri**  
**Contact: (816) 426-3122**

### Iowa Man Pleads Guilty to Dog Fighting Conspiracy

KANSAS CITY, MO—Matt J. Whitworth, United States Attorney for the Western District of Missouri, announced that a Jefferson, Iowa, man pleaded guilty in federal court today to his role in a conspiracy to promote and participate in dog fights.

Kevin P. Tasler, 51, of Jefferson, Iowa, pleaded guilty before U.S. District Judge Ortrie D. Smith this morning to the charge contained in a June 23, 2009, federal indictment.

By pleading guilty today, Tasler admitted that on April 25, 2009, he conspired to transport a pit bull dog from Iowa to Missouri for participation in an animal fighting venture. Tasler directed the transportation of the pit bull to the home of co-defendant Cris E. Bottcher, 48, of Gilman City, Mo., where the dog fights took place.

Bottcher, a registered nurse employed at Harrison County Community Hospital in Bethany, Mo.,



pleaded guilty on Oct. 6, 2009, to his role in the dog-fighting conspiracy. Bottcher also pleaded guilty to sponsoring or exhibiting an animal in an animal fighting venture.

Co-defendant Rick P. Hihath, 56, of St. Joseph, Mo., pleaded guilty on Oct. 14, 2009, to his role in the dog-fighting conspiracy. Hihath, who worked for a state school for the handicapped, also pleaded guilty to sponsoring or exhibiting an animal in an animal fighting venture. Hihath was the promoter and sponsor of the match fights and roll fights involving pit bull fighting dogs transported from Iowa and Nebraska to Missouri.

The government is seeking to take legal ownership of Tasler's two pit bull terriers, as well as Hihath's 12 dogs (seven pit bull terriers and five American bulldogs) and Bottcher's 11 pit bull terriers, all of which are in the care and custody of the Humane Society. Under federal law, the government can seek the forfeiture of any animals engaged in an animal fighting venture. Additionally, the government is seeking a court order requiring the defendants to reimburse the Humane Society for all costs incurred for care of the animals while the animals are in the custody of the Humane Society.

Under federal statutes, Tasler is subject to a sentence of up to five years in federal prison without parole, plus a fine up to \$250,000 and an order of restitution. A sentencing hearing will be scheduled after the completion of a presentence investigation by the United States Probation Office.

In a separate case that resulted from the same multi-state investigation, Jack Ruppel, 35, of Eldon, Mo., pleaded guilty on Sept. 4, 2009 to his role in a conspiracy to transport animals across state lines for an animal fighting venture and to use the mail to promote and advertise the venture. Ruppel also pleaded guilty to selling an animal for participation in an animal fighting venture.

Beginning sometime before 2008, Ruppel, who operated Ozark Hillbillies Kennel, became involved in breeding, raising, training and selling dogs for participation in animal fighting ventures. Through his dog kennel operation, Ruppel bred, trained, conditioned and developed pit bull terriers both for participation in animal fighting ventures and to represent himself in animal fighting ventures and dog fighting competitions.

Ruppel specifically admitted that he attended or participated in 10 dog fights between July 19, 2008, and April 18, 2009, including one dog fight at his residence, and that he wagered money on some dog fights. Ruppel admitted that he killed some of his dogs who would not fight, or had not fought well enough to meet expectations.

The government is also seeking to take legal ownership of Ruppel's 46 dogs (45 pit bull terriers and one mastiff).

This case is being prosecuted by Assistant U.S. Attorney Jane Pansing Brown. It was investigated by

the Office of Inspector General-Investigations, U.S. Department of Agriculture, the Missouri State Highway Patrol and the Federal Bureau of Investigation.

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FBI.gov is an official site of the U.S. Federal Government, U.S. Department of Justice.

Will Wong

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**From:** frank ford [fordcgg@pacbell.net]

**Sent:** Thursday, December 24, 2009 12:05 PM

**To:** John Ruffcorn; Valerie Harris; Keith Nesbitt; Mike Holmes; Kevin Hanley; Bridget Powers; Will Wong; Robert Richardson

**Cc:** Deric Rothe

**Subject:** Another Pit Bull Attack

For the second time in three weeks, a Pit Bull has attacked a human in El Dorado county. This animal was a 40 pound Pit Bull-Shepard mix with no collar wandering around Placerville.

El Dorado County Animal Control is looking for the dog due to the bite broke the victim's skin, just as another Pit Bull did three weeks ago in El Dorado Hills.

Frank

[http://edcgov.us:80/AnimalServices/PublicNotice/BitingDogSought\\_12222009.html](http://edcgov.us:80/AnimalServices/PublicNotice/BitingDogSought_12222009.html)

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Shelter Wish List & Donations

For Non-Emergency  
Complaints,  
use our online form:

**Complaint Form**



For Laws on Animals in  
El Dorado County:

Ordinance  
Code

See Title 6

## PUBLIC NOTICE

12/10/2009

### Biting Dog Sought

*Bite occurred near Cedar Ravine Road and Quarry Road in Placerville  
on Tuesday, December 22*

El Dorado County Animal Services is searching for the owner of a dog that bit a woman on Tuesday, December 22, at approximately 10:30 a.m. The dog is described as medium-sized (approximately 40 pounds), possibly a German Shepard mix with pit-bull. The dog has a square head, long coat, dark brown with black (brindle) in color. It is unknown if the dog is male or female. No collar was seen. There was no sign of the dog's owner nearby. The dog was last seen running on property in the rural area of Cedar Ravine Road and Quarry Road.

The woman who was bitten sustained minor injuries, but the skin was broken. Animal Services would like to speak to the owner of the dog to verify that the animal is current on its rabies vaccination so that the woman does not have to go through post-exposure rabies treatments. Anyone with information is asked to contact Animal Services at (530) 621-5795.

**Will Wong**

**From:** frank ford [fordcgg@pacbell.net]  
**Sent:** Wednesday, January 13, 2010 2:23 PM  
**To:** Will Wong; Valerie Harris; Deric Rothe; Robert Richardson; Bridget Powers; Kevin Hanley; Mike Holmes; Keith Nesbitt  
**Subject:** 3-year-old Calif boy killed by pit bull - Authorities say dog was also aggressive to firefighters

Guys:

Surprise.....a Pit Bull killed a 3-year old boy this past Saturday in San Bernardino county. The pit bull was shot and killed by a sheriff's deputy after it acted aggressively while being rounded up.

While researching the recent AJ op-ed piece on the Pit Bull, I missed last September's Pit Bull attack of a 3-year old boy back East where the Pit Bull ripped off the boy's entire scalp....it took 100 stitches to put the scalp back together for the lad.

Sad tragedies, but all too common with the "PB".

Frank Ford

<http://www.ems1.com/fire-ems/articles/739436-Calif-3-year-old-boy-dies-hours-after-pit-bull-attack/>



01/11/2010

### **3-year-old Calif. boy dies hours after pit bull attack**

Authorities say dog was also aggressive to firefighters

The Associated Press

APPLE VALLEY, Calif. — Authorities say a 3-year-old boy has died after his family's pit bull attacked him at a home in Southern California.

The San Bernardino County Sheriff-Coroner Department said in a statement Sunday that 3-year-old Omar Martinez was declared dead at Saint Mary Medical Center in Apple Valley.

Authorities answered a 911 call Saturday afternoon reporting that a boy had been attacked by a dog and had stopped breathing.

Paramedics found the boy unresponsive and took him to the hospital, where he died about two hours later.

Authorities say the dog was aggressive toward firefighters when they arrived at the Apple Valley home, and a sheriff's deputy shot and killed the animal.

The coroner's office says an autopsy will be conducted on the boy, and sheriff's deputies and animal control officials are investigating.

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## *Report to the Auburn City Council*

Action Item

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Agenda Item No.

City Manager's Approval

**To:** Mayor and City Council  
**From:** Robert Richardson, City Manager  
**Date:** June 14, 2010  
**Subject:** Committee/Commission Work Plans and Funding Requests

### *The Issue*

Shall the City Council approve the funding requests from City Commissions and Committees?

### *Conclusion and Recommendation*

That the City Council hear each Committee/Commission work plan presentation and provide funding approval.

### *Background*

Each year the City Council considers the work plans and funding requests from each of the City's Commissions and Committees. Traditionally, most City Commissions and Committees have been funded exclusively through the General Fund. However, with economic tightening and expanded use of the Auburn Urban Development Authority, Commission/Committee funding has changed over time. Currently, the General Fund has \$53,000 in funds allocated for Committee/Commission use, and these funds may have to stretch over several years. However, both the Economic Development Commission and Arts Commission can continue to play a strong role through the advancement of AUDA funded projects into the future.

The proposed budgets/work plans for the City's Committees/Commissions are:

	Funding Source
<b>Economic Development Commission</b>	G.F. AUDA
Community Funding Support	
4 <sup>th</sup> of July	\$3,500

Festival of Lights	\$ 750
Think Auburn First	\$1,000

Projects

Hotel Video	\$1,000	
Streetscape Phase II		\$1,000,000
Façade Design Guidelines		\$ 25,000
Façade Project Funding		\$ 300,000
Discover Auburn Brochure		\$ 15,000

<u>Total Funding Request</u>	<u>\$6,250</u>	<u>\$1,340,000</u>
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**Endurance Capital Committee**

Projects

Website Update	
100 Mile Endurance Challenge/ARD	
AMGEN Coordination	
Finnish Line Presence (Where's My Runner?)	
Presence at Visitors Center	\$750
Filming of events for TV distribution	

<u>Total Funding Request</u>	<u>\$750</u>
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**Arts Commission**

Community Events

Art Walk	\$3,000
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Projects

Streetscape Art Selection (funding to be determined)	
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<u>Total Funding Request</u>	<u>\$3,000 plus Streetscape Allocation</u>
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**Auburn Community Television**

Gap Funding for final Digital Conversion	\$2,500
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<u>Total Funding Request</u>	<u>\$2,500</u>
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**Fiscal Impact**

Total General Fund Requests:	\$12,500
Total RDA Requests:	\$1,340,000
Public Art Funding:	Undetermined

Ending General Fund Balance:	\$40,500
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